



## U.S. DEPARTMENT of STATE

### Ukraine

#### Country Reports on Human Rights Practices - [2003](#)

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Ukraine is a mixed presidential and parliamentary republic governed by a directly elected President, a Prime Minister who heads a Cabinet of Ministers, and a unicameral Parliament (Rada). The Prime Minister is nominated by the President and approved by the Rada. The cabinet is nominated by the Prime Minister and approved by the President, but generally is under the President's direction. The March 2002 parliamentary elections were an improvement over previous elections in some respects, but important flaws persisted. Presidential elections in 1999 failed to meet a significant number of election-related commitments to the Organization for Security and Cooperation in Europe (OSCE). Presidential elections are scheduled for October 2004. By-elections and local elections during the year revealed serious shortcomings. The Constitution provides for an independent judiciary; however, the courts were subject to political interference and corruption and were inefficient.

There are two principal security agencies, which share responsibility for internal security: The Security Service of Ukraine (SBU), which is responsible for intelligence gathering and the Ministry of Internal Affairs, which controls the various police forces. The armed forces largely remained outside of politics; however, government agencies interfered indirectly in the political process through criminal and tax investigations of politicians, journalists, and influential businessmen. Civilian authorities generally maintained effective control of the security forces. Members of the security forces committed human rights abuses. The extent to which the authorities were complicit or acquiescent in these abuses was uncertain.

The economy was mixed, with the private sector accounting for 65 to 70 percent of gross domestic product. The country had a total population of 47,745,000, reflecting a continued downward trend. After nearly a decade of constant decline, the economy continued the growth trend that began in 2000 and grew by 4.8 percent in 2002 and 8.5 percent during the year. The economy was burdened by wage nonpayment and arrears, and the shadow economy (defined as activity deliberately unreported for purposes of tax evasion) accounted for a significant proportion of real income. Wage arrears increased by approximately 1.3 percent in the first 6 months of the year, as compared with the same period in 2002. Wealth was concentrated in the political elite and among directors of the state-dominated sectors such as metals, oil, and gas.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Seriously flawed local and parliamentary by-elections during the year, as well as administrative and other difficulties imposed to limit the organizational efforts and access to media of opposition parties, restricted citizens' right to change their government. There were some deaths in custody. Police and prison officials tortured and beat detainees and prisoners, and at least two detainees died under suspicious circumstances. Police abuse and harassment of racial minorities was a continuing problem. The beating of conscripts in the army by fellow soldiers was common and at times resulted in death. Prison conditions remained harsh and life-threatening, particularly because of prisoners' exposure to diseases such as tuberculosis. The Government rarely punished officials who committed abuses. Arbitrary arrest and detention from what appeared to be political motivation, were problems at times, as was lengthy pretrial detention in very poor conditions; however, the courts continued to release defendants from confinement pending trial. Long delays in trials were a problem and judges continued to readily grant most Procuracy requests for residential search and wiretap warrants.

Authorities interfered with the news media by harassing and intimidating journalists, censoring material, and pressuring them into applying self-censorship. There were some limits on freedom of assembly, and the authorities impeded the efforts of individuals to participate in some demonstrations. Freedom of association was restricted. There were some problems with registration and property disputes; however, the Government took steps to address the concerns of religious communities. There were reported instances of anti-Semitic acts, including desecration of synagogues. There were some limits on freedom of movement. Violence and discrimination against

women, including sexual harassment in the workplace, were problems. Violence against children was a problem. Ethnic minorities and Muslims complained of harassment and frequent identity checks. The Government discouraged workers from organizing unions. Trafficking in women and girls for sexual exploitation was a serious problem, which the Government took steps to address.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no confirmed reports of political killings; however, six individuals, two in police custody, died under suspicious circumstances, and unidentified assailants killed one opposition party member.

On August 1, former Kiev criminal police officer Ihor Honcharov, the purported leader of the gang suspected of killing prominent journalist Heorhiy Gongadze in late 2000, died under suspicious circumstances while in police custody. Reportedly, Honcharov had information about the involvement of high-level officials in the kidnapping and killing of Gongadze and planned to testify in court about this involvement. His body was cremated on August 3 without an autopsy or official determination of the cause of death. No details of the investigation into Honcharov's death have been made public.

Abuse of prisoners and detainees and harsh prison conditions at times led to deaths (see Section 1.c.). According to the State Department for Execution of Punishments, during the year there were 696 deaths in prison and 130 deaths in detention facilities (compared to a combined total of 1,381 in 2001), many due to harsh conditions. Officials attributed this reduction in the number of prison deaths to a concerted effort to improve prison conditions, including health care and nutrition.

Human rights groups stated that soldiers continued to be killed during violent hazing events, although officials denied that any servicemen had died because of physical violence (see Section 1.c.). During the first 4 months of the year, 32 soldiers died of unnatural causes. Officials cite one case where one soldier killed another by hitting him in the chest with an elbow. Death by hazing was frequently described as suicide. According to official statistics, in 2002, 29 military personnel, including 13 conscripts, committed suicide. It is unknown whether any were driven to suicide by violent hazing. As of May, 11 servicemen had committed suicide and 32 servicemen had died of unnatural causes.

On January 20, conscript Oleh Tkachuk allegedly committed suicide by jumping out of a second-floor window. Relatives believe he was beaten to death and thrown out of the window. Tkachuk's arms, nose, skull, and a finger had been broken; his hands had needle prick marks; his body had no cuts from the broken glass. Other soldiers reported that Tkachuk had been subject to violent hazing and that senior soldiers had raped him. However, the Association of Soldiers' Mothers reported that a military investigation into the incident concluded that Tkachuk's death was a suicide, and it would be unnecessary to open a criminal case in connection with his death.

The pervasiveness of corruption, connections between government officials and organized crime, and the political activities of organized crime figures often blurred the distinction between political and criminal acts. Politicians, politically connected businessmen, and journalists were the victims of attacks that sometimes were fatal and may have been politically motivated. According to officials, there were 12 contract killings as of May; police had solved 25 of the 41 contract killings in 2002.

On August 30, Ivan Havdyda, Deputy Head of the Ukrainian People's Party, was found dead one block from his apartment in Kiev. Initially, investigators reported that Havdyda died from a fractured skull sustained in a fall. An autopsy later revealed that Havdyda died from a blow to the head. Due to a lack of confidence in the procuracy, which was conducting an investigation of the incident, lawmakers established a commission to investigate Havdyda's death. Friends and colleagues asserted that Havdyda's death was a result of his political activities. A criminal investigation was ongoing at year's end; however, police declined to release any information either to the public or to the Parliamentary commission established to investigate Havdyda's death.

On November 28, local leader of the opposition party Reforms and Order (Our Ukraine bloc) in Khmelnytsky Oblast, Yuri Bosak, was found hanging in a forest on the outskirts of town. Police attributed his death to suicide and closed the case; however, relatives and colleagues believe that Bosak was killed and then hanged because of his political activity. Bosak's lawyer said that there was evidence that Bosak had been killed, and that he had experienced difficulties with the local police just prior to his death in connection with party activities. He was found

with bruises on his wrists consistent with the forceful use of handcuffs, and the fingers on his left hand were broken.

Although officials reported in May that they had identified the killers of Ivano-Frankivsk Oblast Deputy Governor, Mykola Shkribliak, they had not released further information by year's end. Shkribliak, who was running for a constituency Rada seat, was shot on the day before the 2002 parliamentary elections. Police stated that criminal elements from Crimea might have been involved in the murder, and, in July, called for an international search for the two suspects. There was speculation that Shkribliak was killed because of his involvement in privatization issues related to the energy and fuel sector.

Serious allegations persisted that Ministry of Interior officials were involved in killings and kidnappings in previous years. The 2000 killing of journalist Heorhiy Gongadze remained unresolved, although it continued to be a subject of active domestic and international interest, including continuing accusations that senior officials in the Government were implicated. Gongadze's decapitated body was identified in November 2000, after his disappearance 2 months earlier. Former Prosecutor General Svyatoslav Piskun had declared the resolution of this case a major priority when he was appointed in 2002, and an evaluation of the investigation by the Council of Europe released in May concluded that his efforts had been sincere and in conformity with general standards in democratic societies. In October, the former head of the Interior Ministry's Department of Criminal Intelligence, Oleksiy Pukach, was arrested in connection with the killing of Gongadze. However, Piskun was fired on President Kuchma's orders on October 29 and Pukach was subsequently released. Piskun had been involved in a number of politically sensitive prosecutions; however, some observers concluded that his dismissal was linked to his aggressive prosecution of the Gongadze case.

The Government asserted that it was conducting a full-scale investigation into Gongadze's disappearance, but members of the media and the public seriously criticized the Government's handling of the case, while others accused the President and other senior officials of complicity. An audio recording allegedly existed that contained conversations between President Kuchma and other senior government officials discussing the desirability of Gongadze's removal. One other recording, allegedly from the same source, had been judged to be authentic. Officially the investigation of Gongadze's killing remained ongoing at year's end.

In September, authorities arrested four individuals in connection with the July 2001 beating and subsequent death of Ihor Aleksandrov, a director of a Donetsk regional television station; however, some media reports alleged inconsistencies and claimed that the evidence against the suspects was fabricated. The Procuracy has attributed the killing of Aleksandrov, who had aired a number of critical reports about Donetsk-based politicians and was a noted critic of alleged corruption among local law enforcement authorities, to his professional activities. According to officials, the killing was ordered by a Donetsk businessman and was orchestrated by the businessman's brother, both of whom have links to organized crime. Two young associates of the brothers allegedly carried out the killing. There were no new developments in the case of the October 2001 arson-related deaths of five members of a Roma family in Malaya Kakhovka, Poltava region.

AKiev Court closed the case of Mykhailo Kolomiyets, a journalist who disappeared from Kiev in October 2002 and was found hanged in neighboring Belarus. The court ruled out foul play based on the results of independent examinations by international experts that eliminated the possibility of a violent death.

#### b. Disappearance

There were no reports of politically motivated disappearances.

The Kirovohrad Oblast police continued to investigate the 2002 disappearance of Oleksandr Olynyk, an election monitor from the NGO Committee of Voters of Ukraine (CVU), who disappeared from Kirovohrad approximately 1 week after the March 2002 elections (see Section 3). Initial reports did not indicate that his disappearance was related to his monitoring activities; however, subsequent inquiries suggested that he might have received threats while observing the elections. There was no indication of progress regarding the November 2002 disappearance of Andriy Tatarчук, Vice Chairman of the Reforms and Order Party of Odesa (Our Ukraine Bloc) and former city council candidate. Police in Odesa launched an investigation and reportedly detained two individuals; however, they later said that they did not have sufficient evidence to prove that the suspects killed Tatarчук. By year's end, no suspects were in custody.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture; however, police and prison officials regularly beat detainees and prisoners, and

there were numerous reports of torture. An October 2002 report by the European Committee for the Prevention of Torture (CPT) stated that individuals ran a significant risk of physical mistreatment while in prison or police custody. Alleged mistreatment included beatings, the use of electric shocks, pistol whippings, and asphyxiation.

Although human rights groups did not receive specific reports that special militia detachments known as Berkut ("Golden Eagles") tortured and beat inmates as part of regular training exercises, they believed that the practice continued. The media and human rights groups reported that police subjected detainees to various forms of physical torture, including the "swallow," in which officials place the detainee on his stomach and tie his feet to his hands behind him, forcing his back to arch. Another abuse was the "baby elephant," in which officials place a gas mask on the prisoner's head and slowly reduce the flow of oxygen. Detainees also were subjected to a method called the "monument," in which a prisoner is suspended by his hands on a rope and beaten. Human rights lawyers reported that requesting an attorney often leads to a worse beating, and detainees may be beaten until they waive their right to an attorney.

On February 26, the media reported that a suspect attempted to commit suicide by jumping through a fourth floor window of the police station in Kirovohrad. Allegedly, the suspect was driven to suicide by police torture that included the use of electric shocks. In April, both feet of Oleksandr Lobanov, a prisoner at Prison 120 in Volnovakha, Donetsk Oblast, were amputated because of gangrene. The gangrene allegedly resulted from a severe beating by riot police during a riot control exercise at the prison. Prison officials reportedly forced Lobanov to sign a statement that he had injured his feet himself while exercising during a walk in the prison yard. The Penal Department and Procuracy opened an investigation on this case. In December 2002, in Zaporizhzhya, a drug addict suspected of burglary died in custody from injuries sustained from an alleged beating. Police claimed that the detainee had been beaten before entering police custody, but no information was available by year's end whether anyone had been charged.

During the 5 years ending in July, the Office of the Ombudsman received more than 12,000 reports of torture. The Ombudsman also maintained that detainees who were unable to pay a deposit for meals went hungry and that this qualified as another form of torture. The Ombudsman actively publicized reports of such practices; however, the Ombudsman had no enforcement authority.

Police abused Roma and harassed and abused dark-skinned persons. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, violence against them (see Section 5). Police also harassed refugees (see Section 2.d.), and journalists (see Section 2.a.).

Despite extensive legislation on the protection of service member rights and official regulations concerning relations among military personnel, reports continued during the year of harsh conditions and violence against conscripts in the armed forces (see Section 1.a.). Senior conscripts often beat recruits, sometimes to death, and forced them to give up money and gifts that they received from home. According to human rights associations, garrison prosecutors often did not investigate complaints of physical harassment. Punishment administered for committing or condoning such activities was insufficient to deter further practice of such abuses. Although military officials reported that there were no deaths due to physical violence, human rights groups, including the Association of Soldiers' Mothers, reported that violent hazing continued to be widespread. They reported that in 2002, the procuracy opened 129 criminal cases pertaining to violent hazing. However, it was unknown how many of those resulted in convictions.

An officer was arrested during the year in connection with the August 2002 quarry landslide that claimed the lives of two conscript soldiers who were digging sand for the construction of a private garage for a junior military officer in Lviv Oblast. However, there was no information at year's end about further developments in the case.

Prison conditions remained harsh and life threatening. Although information on the physical state of prison walls and fences, as well as on pretrial detention blocks was officially considered to be a government secret, the press reported freely about harsh prison conditions. According to complaints received from the Office of the Ombudsman and human rights NGOs, prison officials intimidated and mistreated inmates. Due in part to severe economic conditions, prisons and detention centers were severely overcrowded and lacked adequate sanitation and medical facilities. Almost 25,000 individuals reportedly were held in prison cells with neither windows nor toilets. In the Zhytomyr region, the Human Rights Ombudsman investigated the misallocation of funds that had been earmarked to improve food standards for prisoners.

In April, the media reported that the European Court of Human Rights (ECHR) requested that the Government pay from \$1,000 to \$3,000 (5,300 to 15,900 hryvnya) to six citizens who had been in inhumane conditions in prisons before their death sentences were commuted to life imprisonment. Additionally, the ECHR found that some inmates were denied the right to worship in a prison in the Ivano-Frankivsk Oblast.

Men and women were held in separate facilities, and juveniles were held separately from adults. Additionally, pretrial detainees were always held separately from convicted prisoners. In theory, regulations require more space and some special accommodations, such as bathtubs, for women; however, in practice, conditions were equally poor for men and women in both pretrial detention centers and regular jails. The average space provided is 2 square meters per man and 2.5 square meters per woman or juvenile. The law does not recognize political prisoners as a separate category of detainee.

Prisoners were permitted to file complaints with the Ombudsman about the conditions of detention, but human rights groups reported that they were punished for doing so. In April, opposition UNA/UNSO prisoner Serhiy Halchuk, a deputy in the Rada, told the human rights Ombudsman that prison guards beat him with clubs and harassed him and other prisoners in the Lukianivska prison in Kiev where he was detained in 2002. He stated that guards deprived complaining prisoners of correspondence and food packages. Conditions in pretrial detention facilities also were harsh. Inmates sometimes were held in investigative isolation for extended periods and subjected to intimidation and mistreatment by jail guards and other inmates. Overcrowding was common in these centers. The total capacity of these facilities is 36,000, but approximately 40,633 detainees were held in them as of November. In April, officials announced that the SBU had closed its pretrial detention centers. Prison officials confirmed that all pretrial detainees were subsequently transferred to its facilities.

Conditions in the Corrective Labor and Treatment Centers for Alcoholics (LTPs), operated by the State Penal Department, where violent alcoholics were confined forcibly by court decision, differed little from those in prisons. The Government did not meet its earlier commitment to transfer all of the LTPs to the Ministry of Health. Virtually no treatment for alcoholism was available in these centers. Despite a government decree directing the closure of LTPs by the end of 2000, two such centers continued to operate under the auspices of the State Department for Execution of Punishments.

According to official statistics from the Penal Department, there were 696 deaths in prisons during the year, and 130 deaths in pretrial facilities. Poor sanitary conditions resulted in 300 deaths from diseases such as tuberculosis and 13 from dysentery. On June 19, the Rada passed a resolution that expressed concern about the serious problem of tuberculosis in prisons. It was reported that as many as 14,000 inmates were infected with an active form of the disease as of year's end. Additionally, annually 1,000 prisoners died from tuberculosis, and approximately 3,000 fatally ill patients were granted early release and sent home to die.

According to human rights groups, a reorganization of the Penal Department to ensure greater independence of the penal system did not affect the Department's practices, and there was little civilian oversight of its activities. Although the Government implemented some programs for the retraining of prison and police officials, it punished only a small minority of those who committed or condoned violence against detainees and prisoners. According to prison authorities, no criminal proceedings involving torture or mistreatment of prisoners were opened during the year and no employee of the penitentiary system was disciplined for improper treatment of detainees. However, 15 criminal cases were opened against employees and 6,318 employees were disciplined in the first ten months of the year for other, unspecified, reasons. The Ombudsman continued to draw attention to the state of the penitentiary system by visiting prisons and raising prison-related issues in public. Following a visit to a detention facility in Crimea, officials built a courtyard to provide inmates, who previously were unable to exercise out of doors, with an area where they could engage in physical activity. In August, the new Criminal Penal Code, which was scheduled to be implemented in 2004, was signed into law. The new law is intended to regulate prison life and provide safeguards against the mistreatment of prisoners.

The Government continued to allow prison visits from human rights observers; however, some of them reported that at times it was difficult to obtain access to prisons to visit specific prisoners and they were not allowed full access to prison facilities.

In 2001, the Rada ratified the first and second protocols of the European Convention on Prevention of Torture, which mandates the inspection of prisons by international observers. While conditions remain below international standards, the media reported that monitors of the Council of Europe (COE) left with "a good impression" after their visit to prisons in the Zaporizhzhya Oblast. Additionally, a new pretrial facility has been built in Kharkiv, which reportedly meets European standards, and several cells with modern comforts were offered in a detention center in Dnipropetrovsk.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, arbitrary arrest and detention remained problems.

The Minister of Internal Affairs is a member of the Cabinet of Ministers, while the SBU enjoys special status within the executive branch and reports directly to the President. The State Tax Administration, which is accountable to the President and the Cabinet of Ministers, also has law enforcement powers, which it exercises through the tax police. The Office of the Prosecutor General prosecutes criminal cases and is responsible for enforcement of court decisions in criminal cases. On July 29, legislation providing for civilian control over the army and law enforcement agencies was enacted and an implementation plan approved. The law authorizes parliamentarians to conduct investigations into national security and defense issues with subsequent public hearings. The law also significantly broadens the authority of the human rights Ombudsman to initiate investigations pertaining to the military's activities, as well as its law enforcement bodies. The law also assigns to the Audit Chamber of Ukraine control over national defense and security budget allocations. At year's end, there was not enough information to assess the impact of this legislation.

Prisoners and detainees addressed complaints to the Rada-elected Ombudsman for Human Rights. According to the Office of the Ombudsman, most of the complaints that it received centered on human rights. A significant percentage of these complaints were for civil violations by law enforcement personnel. Approximately 1,000 policemen have been dismissed for engaging in torture, and 164 have been convicted for torturing prisoners.

Authorities made some effort to end abuses, including disciplinary action against law enforcement authorities who committed abuses. According to authorities, as of May 1, there were 246 criminal cases considered against 272 police officers, including 128 cases for exceeding authority and 53 cases for abuse of authority. Of that number, 48 criminal cases were opened. As of June, 27 former police officers were convicted and 1,225 were fired. Over a 4-year period ending in June, 400 law enforcement officers faced criminal charges for violence against detainees, and 168 were convicted. A new Criminal Code, which took effect in 2001, mandates 3 to 10 years of imprisonment for torture; however, human rights groups reported that, during the year, there were no prosecutions for torture under the new Criminal Code.

On July 11, the Parliament passed a law on amendments to the Law on Administrative Violations. The law states that non-compliance by state officials with regulatory requirements of the human rights Ombudsman, Audit Chamber, or a national deputy, or the creation of impediments to their work, may result in the imposition of fines. The law codified existing authorities; it was unclear at year's end whether it had had any effect on the role of the Ombudsman.

The Constitution provides for compensation for unlawful conviction and the law allows compensation for illegal arrests; however, these provisions rarely were invoked.

The law provides that authorities may detain a suspect for 3 days without a warrant, after which an arrest order must be issued. The courts may extend detention without an arrest warrant for an additional 10 days. Suspects who believe that further investigation may lead to their immediate exoneration may petition the court for an additional 15-day detention. The law further provides that pretrial detentions may not last more than 2 months. In cases involving exceptionally grave offenses, the Prosecutor General may petition a judge of the Supreme Court to extend the period of detention to 18 months. The law does not limit the aggregate time of detention before and during a trial. The law permits citizens to contest an arrest in court or appeal to the prosecutor. The Constitution requires that officials notify family members immediately concerning an arrest, but they often did not do so in practice. According to justice officials, changes in the administration of justice made in 2001 have resulted in a decrease of approximately 10 percent in arrest and pretrial detention warrants.

The Government occasionally employed such charges as criminal libel or tax evasion to detain persons (usually opposition activists or journalists) who were openly critical of the Government or challenged the interests of powerful business or political figures close to the Government (see Section 2.a.). On May 13, a panel of three judges of the Kiev Appeals Court closed all criminal cases against Yulia Tymoshenko, head of the opposition political group named after her, as well as against her relatives and colleagues. The Appeals Court also ordered the release from custody of individuals charged in the case, including Tymoshenko's father-in-law, who had been extradited from Turkey in 2002 at the request of the Government. One detainee, Yevhen Shaho, was released from the Zhytomyr pretrial facility under this decision; however, the procuracy subsequently charged him with escaping from prison. The Prosecutor General immediately appealed the Kiev Court's decision to the Supreme Court and filed new charges against the respondents in this case. On June 10, the Supreme Court suspended the May 13 decision by the Kiev Court pending a review of the Procuracy's appeal, and on October 7 rescinded the May 13 decision. Additionally, Tymoshenko's husband was declared a wanted person because he did not appear for questioning. Tymoshenko claimed that he had never been summoned for questioning. The trial of Tymoshenko's father-in-law and one colleague was underway in Kiev at the end of the year. In August, the Prosecutor General again asked the Rada to lift Tymoshenko's parliamentary immunity from prosecution, and on September 3, the procuracy completed its investigation into the criminal case against her. On October 6, the Rada Rules Committee

rejected as unjustified the procuracy's August immunity request.

Borys Feldman, former vice president of Bank Slovyanskyy, which managed some of Yuliya Tymoshenko's business interests, continued to serve his 9-year prison sentence for tax evasion and financial mismanagement that was subsequently upheld by the Luhansk Appeals Court in 2002. Authorities continued to harass Andriy Fedur, the attorney for Borys Feldman. On May 15, he was detained for 3 hours by traffic police and later released; he was held for identification, although he claimed he produced his identification card and driver's license for police officers. On June 27, preliminary court hearings began on charges that Fedur forged his car lease contract. Fedur claimed that his prosecution on these charges was designed only to remove him from serving as defense attorney on politically sensitive cases, as he is barred under the law from practicing as an attorney while criminal proceedings are pending against him.

On March 21, the procuracy began a criminal case against former Deputy Prime Minister of Agriculture, Leonid Kozachenko. Kozachenko, who denied any wrongdoing, was charged with bribery and abuse of office following reports of grain shortages on the domestic market. Kozachenko claimed that the charges against him were politically motivated and that an attempt was being made to restore the inefficient command-administrative system of managing the agricultural sector. Reportedly, the charges that initiated the criminal case were made by high-level government officials and were aimed at discrediting Kozachenko as a politician and public figure. While detainees were frequently released from pretrial detention with travel bans, Kozachenko was only released on bond after several parliamentary appeals. Kozachenko's trial was ongoing at year's end.

Human rights groups reported that they continued to receive complaints from Roma regarding arbitrary detention and physical harassment by the police (see Section 5).

The law stipulates that a defense attorney must be provided without charge to an indigent detainee from the moment of detention or the filing of charges, whichever comes first. There were insufficient numbers of defense attorneys to protect suspects from unlawful and lengthy imprisonment under extremely poor conditions. Although the concept of providing attorneys from the state system exists in principle, public attorneys often refused to defend indigents for the low government fee. While in custody, a suspect or a prisoner is allowed by law to talk with a lawyer in private; however, human rights groups reported that prison or investigative officials occasionally denied the client-attorney privilege. To protect the defendant, each investigative file must contain a document signed by the defendant attesting that the charges against him, his right to an attorney, and his right not to give evidence against himself or his relatives have been explained to him. An appeals court may dismiss a conviction or order a new trial if this document is missing. As defendants increasingly became aware of their rights, they insisted on observance of these procedures; however, many persons remained unaware of these safeguards.

As a result of legal changes enacted in 2001, the prosecutor's office may no longer initiate new criminal investigations without prior court approval, with the exception of a number of serious offenses (see Section 1.e.).

By law, a trial must begin no later than 3 weeks after criminal charges have been filed formally with the court, but this requirement rarely was met by the overburdened court system (see Section 1.e.). Months may pass before a defendant finally is brought to trial, and the situation did not improve during the year. Complicated cases may take years to go to trial. Although an amendment to the Criminal Procedures Code provides for the imposition of monetary bail, it has been used rarely; many of the defendants cannot pay the monetary bail amounts imposed by law. Instead, courts imposed restrictions on travel outside a given area as an alternative measure to pretrial confinement. Approximately 70 percent of defendants awaiting trial--approximately 150,000 individuals --were released from pretrial confinement during the year, many of them under restrictive travel conditions. Defendants were released pending trial in increasing numbers.

Police arbitrarily detained persons for extensive document checks and vehicle inspections (see Section 1.f.). They routinely detained dark-skinned persons for arbitrary document checks (see Section 5).

According to authorities, as of November, the prison population was 186,982 persons, including 146,319 in prisons and 40,663 in remand centers. Many of the individuals in pretrial confinement were charged with serious violent crimes. Since only the courts may authorize the continuation of pretrial detention pursuant to 2001 amendments, they closely examined cases in which authorities confined the defendants for extended periods in pretrial detention based on previous authorization by prosecutors.

At times persons involved in property, inheritance, or divorce disputes were wrongfully diagnosed with schizophrenia and confined to psychiatric institutions.

The Constitution prohibits forced exile, and the Government did not employ it.

e. Denial of a Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice, the judiciary was subject to considerable political interference from the executive branch and also suffered from corruption and inefficiency. The courts were funded through the Ministry of Justice, which controlled the organizational support of the courts, including staffing matters, training for judges, logistics and procurement, and statistical and information support. The Presidential Administration also reportedly continued the practice of telephoning justices directly to influence their decisions.

The law provides for an independent judiciary; however, the judiciary lacked sufficient staff and funds, which engendered inefficiency and corruption and increased its dependence on the executive, since the judicial system received all its funding from the Ministry of Justice. In a report to the Rada on April 18, the Ombudsman for Human Rights stated that judicial reform has not improved individuals' ability to protect their rights in court. The judiciary remains underfunded, overburdened, and inefficient. In 2002, the Office of the Ombudsman received approximately 270,000 appeals, half of which concerned the denial of judicial protection. Almost half of the lawsuits that were considered by the courts were significantly delayed.

The authority and independence of the judicial system also were undermined by a lack of compliance with court decisions in civil cases. Provisions calling for criminal punishment for noncompliance with court decisions rarely were used. Compliance was particularly poor if the decision clashed with government interests. The Chairman of the Supreme Court, the chairmen of regional courts, and the chairman of the Kiev municipal court (or the deputies of these officials) have the authority to suspend court decisions, which led to interference, manipulation, and corruption. The Justice Minister was quoted as saying that, in 2002, slightly under 50 percent of court's decisions had been enforced. No subsequent statistics on enforcement were available.

The State Executive Service, with authority to execute court decisions, was authorized specifically to enforce judgments in civil cases, decisions in criminal and administrative courts involving monetary compensation, and judgments of foreign courts, the Constitutional Court, and other authorities. The number of court decisions involving monetary or material compensation referred to the department has grown substantially.

Critics claimed credibly that the Government abused its authority over officers of the court by selectively charging and dismissing politically unsympathetic judges. On February 5, the Supreme Judicial Council, allegedly under government pressure, requested that the Rada dismiss Yuriy Vasylenko, an independent judge of the Kiev Appeals Court and critic of President Kuchma. In October and November 2002, Vasylenko had opened two criminal cases against Kuchma, which were subsequently dismissed. The Council accused Vasylenko of violating his oath by unlawfully opening these criminal cases. On May 22, the procuracy opened a criminal case against the three judges of the Kiev Appeals Court who closed the criminal cases against Yuliya Tymoshenko and her husband (see Section 1.d.). The Supreme Court later rescinded this decision. The procuracy considered as falsification the differences in wording between the two copies of the May 13 decision by the Appeals Court that the procuracy received on May 20 and May 21. On September 25, the Zhytomyr Oblast Appeals Court closed the procuracy's criminal case on the grounds that it was unlawful. The procuracy stated that it would appeal this decision. Independent-minded judges also complained that they did not receive politically sensitive cases.

Legislation enacted in 2001 and 2002 introduced important reforms to the court system. The amendments provided for a unified system of courts consisting of a Constitutional Court, a system of courts of general jurisdiction that includes the Supreme Court and specialized commercial (formerly arbitration) courts, and military courts. General jurisdiction courts are organized on four levels: Local courts, regional appellate courts, specialized high courts (the High Commercial Court), and the Supreme Court. The arbitration courts were redesignated as commercial courts and were intended to operate as specialized courts within the single unified system of courts. As a result, the Supreme Court may review their judgments, including those rendered by the High Commercial Court. Military courts are specialized courts that hear only cases involving military personnel.

In February 2002, the Parliament passed a Law on the Judicial System of Ukraine, which the Government began implementing in the last half of the year. While the law helped modernize the judicial system, some observers contended that it granted excessive authority to the President. The law created a new State Judicial Administration (SJA), independent of the Ministry of Justice, to act as a central executive body overseeing the administration, including the finances, of the judicial system. Under the new law, the President also has the authority, with the agreement of the Ministry of Justice and the Chair of the Supreme Court or of a corresponding higher specialized court, to establish and abolish courts of general jurisdiction. The President is empowered to determine the number of judges within the courts, upon the recommendation of the SJA and with the agreement of the Chair of the Supreme Court. HE is authorized to appoint and remove chairs and deputy chairs of courts for 5-year terms (upon



submission of the Chair of the Supreme Court, based on recommendation of the Judicial Council), and establish appellate commercial and appellate administrative courts. The President, upon the recommendation of the Prime Minister and concurrence by the Judicial Council, appoints the head of the SJA. The law also established a Judicial Academy to train new judges and continue the education of sitting judges. The new Court of Cassation was put in place in 2002, and the SJA and Judicial Academy began operations on January 1. In April, the Judicial Academy graduated its first group of judges. However, on December 16, the Constitutional Court declared that the Court of Cassation was not consistent with the Constitution.

Regional courts, including the Supreme Court of Crimea and the Kiev and Sevastopol city courts, serve as appellate courts for the lower-level courts. They may examine evidence independently in a case, call for additional witnesses or evidence, and overrule the judgment of a lower court.

The Constitutional Court consists of 18 members appointed for 9-year terms in equal numbers by the President, the Parliament, and the Congress of Judges. The Constitutional Court is the ultimate interpreter of legislation and the Constitution, and it determines the constitutionality of legislation, presidential edicts, cabinet acts, and acts of the Crimean Autonomous Republic. The President, at least 45 Members of Parliament, the Supreme Court, the Ombudsman, and the Crimean legislature may request that the Constitutional Court hear a case. Citizens may apply to the Constitutional Court through the Ombudsman, who started to exercise this right in selected cases. In some limited cases, the Constitutional Court can interpret law for individual citizens, when the applying citizen provides compelling proof that a constitutional provision was violated or that different government bodies interpreted it differently.

Many local observers regarded the Constitutional Court as the country's most independent judicial body. Human rights groups stated that the Constitutional Court generally maintained a balance of fairness. However, other observers continued to charge pro-presidential bias based on a number of decisions passed during the year. For example, on April 10, the Constitutional Court declared that parliamentarians do not have the right to unimpeded access to the President. This ruling was passed after a 2002 overnight vigil at the presidential administration by a group of opposition parliamentarians demanding an urgent audience with President Kuchma.

The Constitution includes procedural provisions to ensure a fair trial, including the right of suspects or witnesses to refuse to testify against themselves or their relatives; however, pending the passage of legislation to implement these constitutional provisions, a largely Soviet-era criminal justice system remained in place, which limited these rights. In April, the press quoted the head of the Supreme Judicial Council as attributing common miscarriages of justice in courts to the incompetence and irresponsibility of many judges. While the defendant is presumed innocent, conviction rates have changed little since the Soviet era, and nearly all completed cases resulted in convictions. According to official statistics, in the first half of the year there were 98,516 convictions and 264 acquittals. However, since judges frequently sent back to the prosecutor for "additional investigation" cases that lacked sufficient evidence to support the charges (which usually led to the dropping of the case), these statistics are somewhat misleading. In addition, there were indications that suspects often bribed court officials to drop charges before cases went to trial or to lessen or commute sentences.

On April 1, the head of the Zaporizhzhya District Court confessed to accepting a bribe of \$2,500 (13,250 hryvnya) for reducing a defendant's murder sentence by 5 years; an investigation of the incident was ongoing at year's end. In August, a municipal court judge in the Donetsk region was sentenced to 6 years in prison for bribery, and the head of the Justice Ministry's district department in the Cherkasy Oblast was sentenced to 3 years for bribery.

Under the existing court system, cases are decided by judges who sit singly, occasionally with two public assessors (lay judges or professional jurors with some legal training), or in groups of three for more serious cases. The Constitution provides for public adversarial trials, including a judge, public assessors, state prosecutor, defense, and jury (when required by law). With some exceptions, these requirements were respected in practice. The 2001 legislative amendments provide for a jury system; however, this system has not yet been implemented.

Complicated cases can take years to go to trial, and pretrial detention was a problem; however, in increasing numbers defendants were released from confinement pending trial (see Section 1.d.). The condition normally imposed by the court was non-monetary bail in the form of restrictions on travel. Many of the remaining defendants in pretrial confinement were awaiting trial for very serious criminal offenses.

Prosecutors, like the courts, are organized into offices at the rayon (district), oblast (regional), and national levels. They are responsible ultimately to the Prosecutor General, who is appointed by the President and confirmed by the Parliament for a 5-year term. Regional and district prosecutors are appointed by the Prosecutor General. Although, by law, prosecutors and defense attorneys have equal status, in practice prosecutors are more influential. Prosecutors, as well as defense attorneys, may file appeals. The Office of the Prosecutor General practiced

selective prosecution and initiated investigations against the political or economic opponents of the President and his allies (see Section 1.d.). The Prosecutor General also ignored parliamentary and court requests for investigations into high-ranking persons if the accused were presidential allies. Before the 2001 amendments took effect, the procuracy at times used its judicial review powers to annul court decisions unfavorable to the administration's economic or political interests and ordered cases reexamined by a different court.

Legislative changes in 2001 curtailed prosecutors' authority greatly, limiting it to prosecution, representing the public interest in court, oversight of most investigations, and implementation of court decisions in criminal cases. However, prosecutors retained the right to conduct investigations in cases initiated before the amendments were implemented and in cases involving a range of serious offenses, including murder, corruption, and high economic crimes. The Procuracy no longer may initiate new criminal cases; its powers are limited to supervising the observance of laws by law enforcement agencies only. Citizens may challenge court actions by prosecutors and investigative agencies, as well as government actions regarding national security, foreign policy, and state secrets.

Criminal groups routinely used intimidation to induce victims and witnesses to withdraw or change their testimony. The law requires that a special police unit protect judges, witnesses, defendants, and their relatives; however, the unit had not yet been formed, and trial participants were vulnerable to pressure. A witness protection law was in abeyance because of lack of funding. The law provides that the names and addresses of victims and witnesses may be kept confidential if they request protection due to fear for their lives.

On September 12, Hanna Hryshchenko, former judge of the arbitration court in Kiev, was the victim of a contract killing. In July 2002, Judge Ihor Tkachuk of the Donetsk Oblast Commercial Court was found hanged at his dacha in Odesa Oblast. Initially, his death was ruled a suicide; however, investigators later concluded that he had been assassinated due to his professional activities in connection with litigation in the Odesa Oblast Commercial Court between the Odesa Port and a private company, Sintez Oil. Tkachuk also had previously participated in the Procuracy's investigation into plunder of the Black Sea Merchant Fleet.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The authorities infringed on citizens' privacy rights. Legislative amendments that took effect in 2001 provide that only courts may approve warrants for searches of residential properties and wiretaps; however, prosecutors retain the right to issue warrants for searches of nonresidential properties (see Section 1.e.).

The SBU may not conduct intrusive surveillance and searches without a court-issued warrant. The Office of the Prosecutor General has the constitutional responsibility to ensure that law enforcement agencies, including the SBU, observe the law; however, the extent to which the Prosecutor General used his authority to monitor SBU activities and to curb excesses by security officials was unknown. The Constitution provides citizens with the right to examine any dossier on them in the possession of the SBU and to sue for physical and emotional damages incurred by an investigation; however, necessary implementing legislation had not been passed, and the authorities did not respect this right in practice.

In May, a judge of the Kiev Appeals Court that closed criminal cases against Yuliya Tymoshenko and former officials of United Energy Systems complained that the judges in this case had been subject to phone tapping and surveillance (see Section 1.d.). In May, the newspaper Zerkalo Nedeli complained of phone tapping and surveillance. The press reported that government officials are prohibited from giving interviews to Zerkalo Nedeli. Reportedly, Volodymyr Yefremov, former director of the Dnipropetrovsk-based television station 11th Channel and regional representative of Reporters Without Borders, had been under surveillance prior to his July 14 death in a car accident (see Section 2.a.).

Some NGOs reported that authorities had opened and searched some of their mail during the year. The SBU also monitored the activities of certain NGOs active in democracy development projects. Journalists, whose reports were critical of the Government, or who covered opposition politicians and NGOs that engaged in nonpartisan political activity, reported that SBU agents frequently followed them and that their telephones and offices were wiretapped (see Section 2.a.).

Under the law, the police have the right to stop and search a person based on a suspicion that the person has committed a criminal offense. A person suspected of committing an especially grave crime may be arrested and searched without a warrant, but the court must be informed of the arrest within 72 hours (see Section 1.d.). Legislation prohibits the police from stopping vehicles and levying immediate fines; only courts subsequently had

the right to impose such fines. The law had an increasing deterrent effect on the police, who no longer could legally collect spot fines after stopping vehicles for alleged traffic violations, although abuses still regularly occurred. However, the police may detain a person arbitrarily for up to 3 hours to verify identity (see Sections 1.d. and 1.e.). There were reports that police sometimes abused this right.

In 2001, the Constitutional Court ruled that the "propyska" mandatory registration system was unconstitutional; a new "informational" registration mechanism was planned, but had not been implemented by year's end. Additionally, access to public services such as housing, pensions, medical care, and schooling were still based on the propyska system. In its report on the 2002 Parliamentary elections, the OSCE noted that authorities relied on the outdated propyska system to register voters, since no other system existed.

The law prohibits the abuse of psychiatry for political and other non-medical reasons and provides safeguards against such abuse; however, on a few occasions, persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and confined to psychiatric institutions. The disputes often entailed the corruption of psychiatric experts and court officials. Human rights observers reported that procedures regarding the appropriate application of psychological treatment have not been determined, and the Soviet system of classifying mental illness remained in use. Persons diagnosed with mental illness risked being confined and treated forcibly, declared not responsible for their actions, and stripped of their civil rights without being present at the hearings or notified of the ruling. According to statistics available in October, there were approximately 1.2 million registered psychiatric patients in the country. These doctors must examine a patient within 3 days of his confinement. In April, an expert commission of the Association of Psychiatrists terminated its activities in this area due to lack of funding. According to the Ukrainian Psychiatric Association, the Health Care Ministry did not always cooperate with human rights groups attempting to monitor abuse of psychiatry.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, authorities often did not respect these rights in practice. During the year, the authorities took a direct role in instructing the media on events and issues it should cover and how they should be covered. The authorities continued to interfere with news media by intimidating journalists through the use of libel laws, although this practice declined in comparison with the previous year, by license revocations, and by investigations on tax matters. They continued to take steps to strengthen their control over the broadcasting sector.

Authorities did not generally respect freedom of speech, and there were numerous instances when they impeded citizens' right to express their opinions. This interference often took the form of direct intervention, such as the confiscation of opposition newspapers and pamphlets and the refusal to provide television or radio airtime to opposition members. Additionally, freedom of speech was restricted through indirect means, such as influencing publishing houses to refuse or limit the publication of materials critical of the authorities. Authorities interfered with the media by issuing written and oral instructions about what events to cover.

According to the website of the State Committee on Television and Information Policy, there were 17,371 registered print publications and 800 television broadcasters in the country. Despite government pressure and media self-censorship, the numerous newspapers and periodicals on the market, each espousing the view of its respective sponsor, provided a variety of opinions.

Many major newspapers were financed by wealthy investors pursuing their own political and economic interests. These often favored the Government. This backing gave these newspapers an advantage over smaller, more independent, newspapers.

Broadcast media, the primary source of news for most citizens, were either state-owned or owned by oligarchs and powerful business interests. There were six national television stations. State-run television had the widest geographic coverage, but low viewership. Most other television stations were associated with political parties or powerful business interests; however, while the groups often did not agree on particular issues, they generally rallied behind the pro-presidential position on key issues dividing the Government and the opposition. In June, Alexander Zinchenko, who headed the number one television channel, Inter, was removed from his position when his views began to diverge from those of the administration.

Foreign newspapers and periodicals circulated freely.

The NGO Freedom House has downgraded the country's rating from "partly free" to "not free" because of state censorship of television broadcasts, continued harassment and disruption of independent media, and the failure of authorities to adequately investigate attacks against journalists. In 2002, journalists formed an independent union, the Ukrainian Journalists' Union (UJU), to resist censorship and protect journalists from job loss or other forms of harassment. In October, the media reported that other journalists had decided to create another new union, the All-Ukrainian Association of Journalists, as alternative to the UJU.

There was a marked imbalance in the coverage of candidates on national television and radio channels during the campaigns both for the 1999 presidential election and the 2002 parliamentary election (see Section 3). Opposition candidates received limited and often negative coverage at the national level; however, opposition candidates had more success in obtaining access to smaller local and regional television channels. The OSCE reported that media coverage of the elections was "highly biased," with the state-funded national channel giving "disproportionate coverage to the pro-presidential candidates." While candidates' access to the media improved in those elections compared to earlier ones, an independent content analysis conducted in December by the Ukrainian Press Academy (funded by the International Renaissance Foundation) appeared to indicate that this trend was reversing itself as the October 2004 presidential election approached. According to the President of the Ukrainian Press Academy, leading television channels in the country demonstrate features typical of an authoritarian society. These characteristics include broadcasts on all channels portraying identical points of view, declining coverage of political parties and civil society organizations, and increasing coverage of pro-administration representatives.

During the year, some journalists were subjected to physical attacks that may have been related to their professional activities. The national affiliate of Reporters Without Borders reported that in 2002, 3 journalists died in connection with their professional activities, 54 were arrested, and 24 were subjected to aggression and intimidation. A letter from the Ministry of Internal Affairs to the Chairman of the Supreme Rada Committee for Freedom of Speech and Information claimed that the professional activity of the victims was not the motive in the majority of crimes perpetrated against journalists in the period 1995 to 2002. Journalists covering politics, corruption, and crime are allowed carry guns firing rubber bullets for their protection.

In April, in the town of Vynohradov, Trans-Carpathia, unidentified assailants threw a firebomb into the house of the local newspaper's editor, Volodymyr Mocharnyk. The device did not explode, and no one was injured. It was alleged that the attempt was in retaliation for the newspaper's criticism of the district government and local law enforcement officials. In April and July, respectively, unknown persons assaulted Oleksiy Yermolin and Andry Ivanets, both connected with the Crimean weekly newspaper Krymskiye Novosti. According to the newspaper, Yermolin had previously received threats. It was suspected that the assaults were connected with the newspaper's coverage of land privatization abuses on the southern shore of Crimea, as well as articles about the markets in Simferopol.

On June 17, three shots were fired into the house of Vasyl Koriaka, editor of the Lubny newspaper Tikhiy Uzhas, and two Molotov cocktails were thrown at the house. No one was injured. Koriaka believed that the attack was linked to his newspapers's critical publications about the Poltava Oblast's regional governor, Yevhen Tomin. Following the attack, President Kuchma instructed the procuracy to investigate the incident. On September 12, Koriaka killed an intruder who attempted to break into his garage. At year's end, the investigation had not ruled out the possibility that the June attack was linked to Koriaka's professional activities.

On July 14, Volodymyr Yefremov, former Director of the Dnipropetrovsk-based 11th Channel and Regional Representative of Reporters Without Borders, died in a car accident. Some media claimed that Yefremov died under suspicious circumstances, as he claimed to be under police surveillance prior to his death, had received suspicious phone calls, and had expressed a fear of "yet another tragic car accident." The police have not ruled out foul play, but would release no information pending the outcome of their investigation. Oleh Yeltsov, editor of the Internet newspaper Criminal Ukraine, who had been assaulted on several occasions, was in hiding outside the country in fear of his life. Yeltsov's newspaper was extensively involved in the Ihor Honcharov case and published Honcharov's statements as well as information relating to the investigation into Honcharov's death (see Section 1.a.).

On December 14, the body of Volodymyr Karachevtsev, leader of the UJU in Melitopol, acting deputy editor of the newspaper Courier, and writer for the Internet publication vlasti.net, was discovered hanging by his clothing from the metal door handle of his refrigerator. Krachevtsev had written on corruption among Melitopol officials, including the mayor. While police had not ruled out murder, investigators were inclined to believe that the death was accidental, a conclusion greeted with skepticism by many observers. No further information was available at the end of the year.

No suspect had yet been identified in the 2001 killing of Oleh Breus, the publisher of the regional weekly XXI Vek in

Luhansk.

In 2002, Mykhailo Kolomiyets, a journalist who was editor of the Ukrainsky Novyny news agency, disappeared from Kiev. Based on the results of an independent examination, experts ruled out the possibility of a violent death, and the Prosecutor General closed the case.

No new information was available about the January 2002 attack by an unknown assailant who threw acid in the face of Tatiana Goryacheva, the chief editor of Berdyansk Delovoi, an independent newspaper based in Zaporizhzhya.

There was no new information about the February 2002 attack on Ivan Besiada, reporter of the Lviv-based newspaper Za Vilnu Ukrayinu and an activist of Yushchenko's bloc, Our Ukraine. Besiada was assaulted in Lviv and sustained a broken jaw and a concussion. He said that the assault may have been linked to his journalistic activities. Additionally, no new information was available about the September 2002 assault of Petro Kobevko, editor of Chernivtsi-based opposition newspaper Chas. Local reporters alleged a link between the assault and the newspaper's criticism of the Chernivtsi Oblast governor.

Although the Tax Administration began publication of scheduled tax inspections in 2001 as an attempt at transparency, it continued to harass media outlets that exposed corruption, portrayed the Government negatively, or provided positive coverage to opposition figures. In 2002, the tax police raided the office of the Internet newspaper Obkom, confiscating computers and documentation in connection with an investigation into an unspecified criminal case. Obkom attributed the raid to its critical news stories about the head of the Local Tax Administration. Volodymyr Boyko, the author of many of these stories and of articles criticizing then Donetsk Oblast Prosecutor General, Hennadiy Vasylyev, who was appointed Prosecutor General in November, was jailed on charges of vagrancy, although his home was searched for evidence of alleged tax evasion. He was released after 10 days, and the charges against him for tax evasion were dropped.

In January, Obkom resumed publishing by using funds provided by the Renaissance Foundation. On April 15, the press reported that Obkom failed to prove the arbitrariness of the Tax Administration's closure in court, as well as the harassment of the newspaper's writer, Volodymyr Boyko, on charges of tax evasion. In July, Obkom complained that criminal police in Kiev were illegally collecting intelligence about the newspaper from its business partners. In October and November, Criminal Ukraine reprinted several of Boyko's articles about Vasylyev's alleged corruption, and, on November 11, the charges of tax evasion were reinstated against Boyko.

In 2002, the editor of the newspaper Svoboda, Oleh Lyashko, was charged with resisting arrest during a police raid on the publishing house Respublika, which printed the newspaper. Earlier that day, police stopped a van with approximately 100,000 copies of the newspaper on a highway in Cherkasy Oblast and threw the copies into a nearby river. The edition carried a statement by an opposition parliamentarian accusing the Prosecutor General of bribery. Police allegedly pushed the van driver into the back seat of the police car, face down on the seat, and then let him out of the police car onto the road several hundred meters away. The procuracy opened a criminal case against Respublika in connection with the "circulation of confidential information about citizens without their consent" and "abuse of office" while circulating such information. At year's end, the case remained open; however, no newspaper representatives had been summoned for questioning.

In April, the Rada enacted a law that prohibits authorities from interfering with the professional activities of journalists and prohibits the establishment of any body to control media information; however, credible allegations continued to surface that the Presidential Administration gave media publishers specific instructions on events to cover and how to cover them, as well as subjects not to cover. These instructions, known as temniki, reportedly included instructions for the media to portray President Kuchma favorably and avoid discussion of events that question his credibility. The Government reportedly contacted library directors to ascertain if the libraries subscribe to opposition periodicals. Directors who admitted to subscribing to such periodicals were told it was a misuse of government funding. In January, the press reported that the Parliamentary Assembly of the COE (PACE) supported an amendment to the report on Freedom of Speech in Europe that stated that the Government had interfered with the mass media's activities.

The Government at times directed key businesses either to purchase advertising from regional television stations or to withdraw from advertising contracts, depending on the news coverage the stations offered.

On October 3, the Rada reviewed the performance of national television and radio companies. Opposition factions criticized the performance of the national television Channel 1, claiming it denied them the opportunity to present their agenda to the public and intentionally misinterpreted opposition arguments. They claimed that programs were

under the close scrutiny of the head of the presidential administration.

The National Council for Television and Radio Broadcasting, which issues licenses and allocates broadcasting time, was comprised of Rada members and presidential appointees. This body exerted much government influence. The Government and the Rada each appoints half of the members of the Council. Council decisions continued to show bias in favor of business interests closely allied politically with the Government.

State-owned and independent channels were subject to the same rates for the majority of broadcasting fees; however, the Government rarely enforced fee payments for state-owned channels. Private and foreign companies also were required to obtain licenses in order to establish and operate their own transmission facilities. Thus, nongovernmental broadcast media were required to obtain two licenses--one for a transmitter and one for a frequency.

In 2002, the Council stripped the Kiev-based television company UTAR of its broadcasting license and awarded the frequency to television station Tabachuk. The press speculated that the license revocation related to the suspicion that opposition politician Yuliya Tymoshenko financially supported UTAR. UTAR stopped broadcasting after losing its license. The station appealed the decision and the Shevchenkivsky district court ruled in favor of UTAR; however, the decision had not been implemented by year's end.

Also in 2002, the National Council on Television and Radio Broadcasting signed a letter warning Radio Dovira that it was re-broadcasting Radio Liberty illegally. Dovira appealed the decision and applied for an expanded license that would allow it to continue re-broadcasting Radio Liberty. The case had not been officially closed at year's end; however, pending enactment of a new law on radio and television that addresses issues related to re-broadcasting, Dovira was allowed to continue these re-broadcasts.

Two television stations deprived of their licenses in 2002 remained off the air while their owners, who claimed they were being punished for criticizing local officials, waited for the appeals of the license revocations to be heard. The stations were the Fifth Channel private television station in the town of Nikopol and the Zaporizhzhya-based television station Khortytsia.

In late 2002, the Rada held public hearings on freedom of speech and media censorship. The hearings were broadcast live on television and received widespread media coverage. Some media executives complained that the Government wiretapped their offices. President Kuchma was cited in the press as suggesting that complaints about censorship were exaggerated; however, in April, the Prosecutor General launched a criminal case involving the media's publication of information that the procuracy claimed was aimed at undermining the authority of Kuchma and obstructing him in the performance of his duties. Several media outlets were also charged with publishing information that was insulting and libelous to the President. Kuchma claimed that he did not know that a criminal case against the press had been initiated and later requested the Prosecutor General to drop all charges.

The use or threat of civil libel suits continued to inhibit freedom of the press, but the number of cases during the year reportedly decreased. The Criminal Code eliminates any criminal penalty for libel and a 2001 Resolution of the Plenum of the Supreme Court mandates that, in order to prove civil libel, plaintiffs must demonstrate that journalists had prior knowledge of the falsity of information before publishing it; however, lower courts still may order that a publication's accounts be frozen pending an appeal of a civil libel case.

In recent years, government officials initiated more than 20 criminal and civil libel cases against Lyashko and his earlier publication Polityka (which was forced to close in 1999), asking for more than \$40 million (200 million hryvnya) in damages. On February 5, Lyashko was convicted of resisting police in connection with the 2002 incident, and fined \$50 (250 hryvnya). Lyashko appealed the conviction. At year's end, the Government was continuing its lengthy efforts to deprive Radio Kontinent and UTAR of their license to broadcast, with results that were inconclusive at year's end. In 2001, the Council decided against renewing the license of Radio Kontinent (RK), an independent radio station that rebroadcast news reports of the British Broadcasting Corporation (BBC), Voice of America (VOA), and Deutsche Welle. RK had been critical of the Government in its own broadcasts, and its owner had been highly critical of President Kuchma's relationship with the media. After a successful challenge to its initial rationale that RK's rebroadcasts of foreign stations were illegal, the Council cited a debt owed by the station to the Government as grounds for its decision. Subsequently, the Kiev Municipal Arbitration Court denied RK's request to block the sale of the radio station's frequency. RK continued to operate pending further appeal, and the ECHR reviewed the case. No information was available about the results of that review. During the year, RK went off the air after the power company, Kievenergo, cut off electricity to the State University of Technology and Design, where RK rents office space.

On April 3, the Rada passed a law that set limits on the amount of damages that can be claimed in lawsuits for

libel. The law requires that the plaintiff deposit a payment of 1 to 10 percent of claimed damages in the form of collateral, which is forfeited if the plaintiff loses the lawsuit. Additionally, the law waives press responsibility for inoffensive, non-factual judgments, including criticism. Despite these measures, the Office of the Ombudsman indicated concern over the 'astronomical' damages awarded for alleged libel.

In April, the media reported that a local court ordered Chas, a Chernivtsi-based newspaper, to pay \$9,500 (50,000 hryvnya) for moral damages based on the alleged defamation of a local official in 2001. Voicing concern that the fine would force it out of business, the newspaper announced that it would appeal the decision of the local court. An appeals court subsequently ordered Chas to pay a fine of \$4,750 (25,000 hryvnya). In May, the Pechersk Local Court in Kiev ordered the publishing house Stolichniye Novosti to pay \$570,345 (3 million hryvnya) for moral damages for calling the magazine "Personnel," a publication of the Interregional Academy of Personnel Management and the International Personnel Academy, anti-Semitic and neo-fascist. Two libel suits originally filed in 2001 against Radio Free Europe/Radio Liberty were reheard in 2002 for the third time due to a change in judges; however, no decision or settlement had been reached by year's end for either suit and no new information was made available about the cases.

Government entities used criminal libel cases or civil suits based on alleged damage to a "person's honor and integrity" to influence or intimidate the press. According to the Mass Media Institute (IMI), 46 actions were brought against the mass media and journalists for libel during the year. IMI estimated that government officials initiated 90 percent of these suits. Article 7 of the Civil Code allows anyone, including public officials, to sue for damages if circulated information is untrue or insults a person's honor or dignity.

The new Civil Code, enacted during the year and scheduled to take effect in 2004, provides that negative information about a person is considered untrue unless the person who spread the information proves to the contrary. Journalists and legal analysts have expressed concern that this code will have a negative impact on freedom of speech and the press.

The SBU had broad powers over the media in regard to the publication of state secrets, which included information on executions, the physical state of prison infrastructure, pretrial detention facilities, and centers for the forcible treatment of alcoholics; however, journalists reported that, in general, they were able to report about harsh prison conditions without any inhibition (see Section 1.c.).

The print media, both independent and government-owned, sometimes demonstrated a tendency toward self-censorship on matters that the Government deemed sensitive. According to a poll taken during the year, many journalists believed that criticism of the president (71 percent), local authorities (69 percent), the Presidential Administration (68 percent), or criminal organizations (77 percent) would result in negative consequences such as psychological pressure, economic sanctions, and physical attacks. Although private newspapers were free to function on a purely commercial basis, they were subject to various pressures, such as dependence on political patrons who could facilitate financial support from the State Press Support Fund and close scrutiny from government officials, especially at the local level. The dependence of some of the press on government patronage inhibited criticism, particularly at the local level. This type of pressure was particularly acute prior to and during the 2002 parliamentary elections.

There were instances in which the authorities restricted or banned some publications critical of governmental entities or officials. On May 5, the procuracy questioned the editor of the newspaper Litsa in connection with a criminal case on charges of publishing libelous information that obstructed the efforts of the President to carry out his duties. However, the editor was charged with printing passages that, in fact, the newspaper had not published. In 2002, Litsa complained about local government pressure following its publication of articles about the local government's interference in by-elections in Dnipropetrovsk Oblast.

The popularity of the Internet has surged in recent years. According to the State Communication and Information Committee, the number of Internet users increased by 50 percent during the year and totaled 8 percent of the population, compared to 5 percent in 2002. Additionally, there were approximately 28,800 web sites, an increase of just over 4 percent from 2002. Of the 300 Internet service providers (ISPs), 10 controlled approximately 80 percent of the market. The Internet attracts more urban and younger people and users are concentrated in the central and western parts of the country where civil society is strongest. A 2000 Presidential decree identified the development of the Internet as a priority of national information policy and instructed the Government to design a state program to develop the Internet network; however, human rights observers were concerned that the Government, particularly the SBU, intended to limit freedom of expression on the Internet, which featured a number of popular opposition web sites.

On December 15, President Kuchma signed legislation that further broadened the powers of the SBU to monitor

Internet publications and e-mail. During public hearings on the draft of the legislation, which requires telecommunications operators to pay for and install monitoring equipment of 'authorized agencies,' the SBU announced that ten ISPs had already installed network monitoring equipment. The stated goal of the network was to fight corruption and further the country's integration into the European Community; however, human rights organizations expressed concern that this network has increased the SBU's ability to supervise citizens without cause. The Internet Association of Ukraine (InAU), a group of six Kiev-based ISPs, complained in a report to the OSCE that enactment of monitoring legislation could infringe on people's rights to privacy of correspondence under existing law.

In July, the Government moved to take control of the "ua" Domain, "ua" being the country's domain suffix. It successfully filed suit against the private firm that administers the "ua" domain and appealed to the Internet Corporation for Assigned Names and Numbers to approve the transfer to a joint Government-private venture. Human rights Observers suggested that this was a further move to exert control over Internet content.

Although limited in readership, Internet publications, in particular Ukrayinska Pravda, played a key role in covering the disappearance of Heorhiy Gongadze and the scandal surrounding allegations of presidential involvement in the case (see Section 1.a.).

While major universities are state-owned, they operated for the most part under full autonomy; however, academic freedom was an underdeveloped and poorly understood concept. Nepotism and bribery reportedly were common during entrance exams and also influenced the granting of degrees. Administrators of universities and academic and research institute directors possessed the power to silence colleagues by denying them the ability to publish, withholding pay and housing benefits, or directly terminating them. Restrictions by the Communications Ministry on the mailing of scientific documents also caused concern. The SBU maintained offices for the protection of state secrets in state scientific and research institutes, including those not conducting any classified research. Private and religiously affiliated universities operated without any reported state interference or harassment.

#### b. Freedom of Peaceful Assembly and Association

The Constitution and law provide for freedom of assembly; however, there were some restrictions on this right. While the Constitution requires that demonstrators inform the authorities of a planned demonstration in advance, the law on public assembly stipulates that organizations must apply for permission to their respective local administration at least 10 days before a planned event or demonstration. The Criminal Code prescribes up to 2 months of corrective labor or a fine for repeatedly staging unauthorized demonstrations. Under the law, demonstrators are prohibited from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. In practice, unlicensed demonstrations were common: Most, but not all, occurred without police interference, fines, or detention.

By year's end, 14 of the 18 prisoners of the National Ukrainian Assembly/Ukraine People's Self-Defense (UNA/UNSO), who had been convicted in connection with 2001 anti-Government demonstrations in Kiev, had been released after serving their prison terms. Of the remaining four, three were scheduled for release in March 2004.

The Constitution and law provide for freedom of association; however, there were instances when authorities impeded individuals' right to gather. For example, during the July Ukrainian-Polish summit in the Volyn Oblast, police briefly detained seven members of the small radical nationalist party, the Ukrainian Social National Party (SNPU), for circulating leaflets calling for a demonstration on July 6 in Lutsk to protest the Government's plans to erect a monument commemorating the 60th anniversary of the large-scale Ukrainian-Polish killings in the Volyn region during World War II and against the July 11 commemorative events in the Volyn Oblast which were attended by President Kuchma and the President of Poland. Police threatened to open a criminal case against SNPU activists on charges of fomenting inter-ethnic hatred; however, no criminal case was opened. On July 10-11, near the village where Kuchma and the Polish President were to meet, police blocked a busload of demonstrators from nationalist youth groups, refusing to let the demonstrators out of the bus for several hours.

In other actions that appeared designed to block demonstrations or intimidate demonstrators, a cafeteria owned by businessman Stepan Marchenko, a leader of the Ukrainian People's Party and head of the local entrepreneurs' strike committee in Myrhorod, Poltava Oblast, was destroyed by arson on August 5, the same day, Marchenko and other entrepreneurs from Myrhorod had planned to go to Kiev to hold a demonstration outside the Presidential Administration in protest of harassment of businessmen in Myrhorod. The trip was cancelled because of the fire. Earlier, Marchenko had been summoned several times to the town hall, where it was suggested that he cancel his trip and the demonstration in Kiev. Marchenko's cafeteria had also been vandalized previously. On September 24 in Lviv, unidentified individuals pushed a group of supporters of the opposition party, SNPU, into a car and held them for several hours at a deserted location. The SNPU supporters had circulated leaflets calling for a September 25 demonstration in Lviv to protest an international agreement signed by the President and other policies.



Groups must register with the Government to pursue almost any purpose. Unregistered groups are prohibited from opening bank accounts, acquiring property, or entering into contracts. The registration law also gives the Government the right to inspect the activities of all registered groups. This law requires that a party specify all its activities in its charter, but it is not required to notify the authorities of each of their meetings. A change in the group's charter necessitates re-registration. In September the Government reregistered the offices of the National Democratic Institute (NDI) and the International Republican Institute (IRI); they had originally sought re-registration in September 2001. The Institute for Sustainable Communities was registered on April 21.

The law provides for restrictions on organizations that are considered dangerous, such as those that advocate violence or racial and religious hatred or which threaten the public order or health. The Government had not identified publicly any group as "dangerous" by year's end; however, far-right political organizations reported that they were subject to harassment and surveillance by government authorities.

There were some additional restrictions on political parties (see Section 3). They may not receive financial support from the state or any foreign patron. In accordance with the Constitution, the law also prohibits the establishment of political parties in the executive and judicial branches, military units, law enforcement organizations, state-owned enterprises, and other public institutions; however, this prohibition often was ignored in practice. The Supreme Court reserves the right to ban any political party upon the recommendation of the Ministry of Justice or the Prosecutor General.

The law requires that a political party maintain offices in one-half of the regions; however, in practice, regional parties existed. Ethnic minorities occupied leadership positions in national political parties (see Section 3).

### c. Freedom of Religion

The Constitution and the law provide for freedom of religion, and the Government generally respected this right in practice. Religious groups of all beliefs flourished. However, some local officials at times impeded attempts by minority and nontraditional religions to register and buy or lease property.

The Constitution and the law provide for the separation of church and state. There is no state religion. The largest church in the country, the Ukrainian Orthodox Church (UOC)-Moscow Patriarchate, predominated in the South and East with 10,310 registered communities, 360 of which were registered during the year. The UOC-Kiev Patriarchate was the second largest of the Orthodox Churches in the country, with 3,186 communities, 167 of which were newly registered during the year. It was strong in the central regions. The smaller Ukrainian Autocephalous Orthodox Church (UAOC), which has 1,107 communities, including 21 newly registered parishes during the year, was also strong in the central regions. The Greek Catholic Church, with 3,326 parishes of which 31 were registered during the year, predominated in the West, but sought renewed presence in Kiev. These churches exerted significant political influence at the local and regional levels. Each of these churches, within its respective sphere of influence, reportedly pressured local officials to restrict the activities of the others.

The law requires all religious organizations and non-secular institutions of education offering religious diplomas to register with the State Committee on Religious Affairs (SCRA). Registration is necessary to own property or carry out many economic activities, such as publishing religious materials and opening bank accounts. The UOC-Kiev Patriarchate reported delays in the registration of its parishes. Some minority religious organizations reported that, particularly at the local or regional levels, officials of the SCRA delayed registration of their organizations for extended periods. However, there were fewer such reports during the year.

Representatives of the Progressive Jewish Communities claimed that local authorities and Chabad Lubavitch officials made statements against their community in the local press while the group was organizing communities in Dnipropetrovsk. The Progressive Jewish Community claimed not only that the Dnipropetrovsk Chabad Community opposed the registration of any Jewish community but itself in the region, but also that, under pressure from Chabad Lubavitch, it was denied registration in Dnipropetrovsk. The Progressive Community dropped its registration bid in 2002.

Representatives of the Muslim community noted that they have been unable to register a community in Kharkiv for the past 11 years. Local police often subjected Muslims to document checks.

Representatives of minority Christian communities expressed concern over instances of discrimination against their adherents, although such incidents appeared to be isolated. Evangelical churches, like many other religious communities, experienced difficulties in obtaining land plots.

Disputes continued among competing Orthodox Christian administrative bodies. The SCRA, although supportive of

a unified, independent Orthodox Church for the country, has maintained neutrality in its relations with the various Orthodox churches. The UOC-Kiev Patriarchate and the Ukrainian Greek Catholic Church complained of harassment by local authorities in the predominantly Russian-speaking southern and eastern regions of the country. The UOC-Moscow Patriarchate complained that local governments ignored the appropriation of its churches by Greek Catholics in the western region.

The SCRA served as the Government's point of contact between the various organizational entities that provided logistical support and permits during the international conference of Jehovah's Witnesses, which drew considerably more than 100,000 faithful to the capital and regional cities. Approximately 20,000 Jewish pilgrims visited the Nachman tomb, 10,000 during Rosh Hashanah. Both events took place without incident.

Representatives of the UAOC cited instances of difficulties in providing religious services to soldiers and of the need to obtain approval from prison chaplains of the Moscow Patriarchate for prison ministry activities.

The Government generally permitted religious organizations to establish places of worship and to train clergy. The Government continued to facilitate the building of houses of worship by allocation of land plots for new construction and through restitution of religious buildings to their rightful owners. The Government provided funds to reconstruct houses of worship, including a mosque in Sakalinie.

Members of numerous religious communities encountered difficulties in dealing with the Kiev municipal administration to obtain land permits and building permits; however, problems were not limited to religious groups. A synagogue, which was used as a sports center during Soviet times, was restored and reopened in Kharkiv.

Under the law, all religions, faiths, and religious organizations are equal. The clergy, religious preachers, teachers, and other representatives of foreign organizations who are foreign citizens and are in the country temporarily, can preach religious faiths and perform religious rites or other canonical activity only in the religious organizations on whose invitation those individuals arrived and with official agreement of the state agency that registered the relevant religious organization. In practice, the Government has not used the law to limit greatly the activity of religious organizations.

The law restricts the activities of "nonnative," foreign-based, religious organizations ("native religions" are defined as Orthodox, Greek Catholic, and Jewish), and narrowly defines the permissible activities of members of the clergy, preachers, teachers, and other non-citizen representatives of foreign-based religious organizations; however, in practice there were no reports that the Government used the law to limit the activity of nonnative religious organizations. There were no reports that foreign religious workers encountered difficulties obtaining visas.

Sectarian religious instruction is prohibited in the public school curriculum. Schools run by religious communities can and do include religious education as an extracurricular activity. Government and UOC-Kiev Patriarchate attempts to introduce training in "basic Christian ethics" into the public schools has resulted in schools now having the right to include this subject in the curriculum at their own discretion. While the country's Jewish leaders also support the teaching of ethics and civics in school, they insist on a nonsectarian approach to this training.

A large number of high-level government officials continued to take part in the commemoration of the massacre at Babyn Yar in Kiev, the site of one of the most serious crimes of the Holocaust directed against Jews and thousands of individuals from other minority groups. The Government commemorates it each September. Discussions continued among various Jewish community members about erecting an appropriate memorial, and possibly a heritage center, to commemorate the killings. The Government was generally supportive of these initiatives.

Outstanding claims for restitution remained among all of the major religious communities. The Government continued to return properties expropriated during the Soviet era to religious groups; however, not all groups regarded the pace of restitution as satisfactory, and all major religious communities continued to have outstanding restitution claims. During the year, religious communities received ownership of 358 premises (i.e. buildings or sections of buildings) converted into places of worship and another 524 religious buildings that were not designated for worship, such as former religious schools, hospitals, and clerical residences, totaling 2,388 and 1,313, respectively, since independence.

Intra-communal competition for particular properties complicated the restitution issue, both for some Christian and for some Jewish communities. Some groups asserted that restitution generally was progressing satisfactorily, although more could be done, while others that did not receive property reported a lack of progress. The slow pace of restitution was a reflection, among other things, of the country's difficult economic situation, which severely limited funds available for the relocation of the occupants of seized religious property. In September 2002, the

Cabinet approved an action plan, drawn up at the instruction of President Kuchma, designed to return religious buildings to the religious organizations that formerly owned them. The Rada subsequently adopted the first reading of amendments to the Land Code that will allow religious organizations permanent use of designated property.

Friction involving various religious groups remained evident, particularly among the leadership of some religious organizations. A dispute between nationalists and Jews over the erection of crosses in Jewish cemeteries in Sambir, and Kiev, remained unresolved, despite efforts by Jewish and Greek Catholic leaders to resolve it. A local court ordered a halt in the construction of an apartment building at the site of an old Jewish cemetery in Volodymyr Volynsky. However, according to the Secretary of the Volodymyr-Volynsky Municipal Council, apartment construction was completed during the year and 90 percent of the units were occupied.

One Christian religious group complained that the UOC-Moscow Patriarchate made calls to local government officials in an attempt to derail land allotments for local religious building establishments. The same group alleged that the UOC-Moscow Patriarchate ordered the reprint of criticism of the group originally published in a Moscow newspaper.

Acts of anti-Semitism continued to be infrequent; however, some ultranationalist groups and newspapers continued to publish and distribute anti-Semitic tracts. The procuracy warned certain publications against publishing anti-Semitic material. Construction of a Ukrainian Greek Catholic Church cathedral in the capital and the planned transfer of the leader's residence to Kiev provoked the Ukrainian Orthodox Church-Moscow Patriarchate to speak out against the Greek Catholic's expansionist plans eastward.

In Kharkiv, the UAOC reported that unidentified perpetrators smashed its windows with a bat on February 15. Police suspected that the bat was thrown during a fight or by a passer-by. Church officials did not insist on further investigation of the incident.

Evangelical Christian missionaries reported some instances of societal discrimination against members of their churches, such as public criticism for betraying native religions, although there were no reports of harassment.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice; however, there were some limitations. Until November 2001, the propyska system--a nationwide requirement to register at the workplace and place of residence in order to be eligible for social benefits--remained in place; access to certain social benefits was limited to the place where one was registered. The Government had not implemented a substitute informational register by year's end and, while fines for failing to register at a place of residence were no longer imposed, information was insufficient to determine whether individuals who had not registered had access to the social benefits that they previously had been denied. Police arbitrarily detained persons for extensive document checks and vehicle inspections (see Section 1.f.).

Citizens who wished to travel abroad generally were able to do so freely. Exit visas were required for citizens who intended to take up permanent residence in another country, but there were no known cases of exit visas being denied to citizens during the year. The Government could deny passports to individuals in possession of state secrets, but those denied had the possibility of appealing.

A 2001 Citizenship Law provides the right to citizenship to all individuals who were born or lived in the country before independence and to their descendants who lived outside the country as of November 1991. Dual citizenship is not recognized. Under the terms of the Citizenship Law, refugees may acquire citizenship if they have lived legally in the country for 3 years (instead of 5 years for other foreigners) and can communicate in the Ukrainian language. Refugees do not have to formally terminate foreign citizenship with their home country unless the Government has signed a specific agreement with that country mandating such a procedure; they must only notify the authorities of their rejection of foreign citizenship. Since independence, more than 1.5 million individuals have returned to the country, while more than a million persons, mostly ethnic Russians, have left the country.

The Government has not supported a foreign-funded program to facilitate travel to the country of some emigrants who qualified for resettlement as refugees; however, more than 260,000 Crimean Tatars have returned from exile to Crimea, mainly from Central Asia. Citizenship law facilitates the acquisition of citizenship by Crimean Tatars, who were deported victims of political oppression, by waiving some of the usual residence and language requirements. According to the U.N. High Commission for Refugees (UNHCR), approximately 98 percent of the Tatar returnees have acquired citizenship. Crimean Tatar leaders have complained that their community has not

received adequate assistance in resettling and that an onerous process of acquiring citizenship previously excluded many of them from participation in elections and from the right to take part in the privatization of land and state assets.

The Law on Refugees provides for the granting of refugee and asylum status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement, but did not routinely grant refugee or asylum status. The law governs the treatment of refugees and entitles refugees to all of the benefits accorded to citizens. It also extends the term of refugee status from 3 months to 1 year. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. When the law on refugees took effect in 2001 the State Committee for Nationalities and Migration assumed authority for refugee adjudication. Regional centers began forwarding cases to the central authorities in July and August 2002; however, 2 years after the implementation of the law, there was still no adjudication mechanism for this body. This process has standardized decision-making; however it has also slowed the adjudication of cases. At year's end, the Government informed UNHCR that it would revise these procedures in order to address this problem. The number of individuals who received refugee status during the year increased but remained very small. UNHCR reported that 1,301 applications for 1,500 individuals were received as of September, and 31 people were granted refugee status.

According to UNHCR officials, the biggest obstacle to the implementation of the Government's commitments to the protection of refugees is that authorities strictly apply very short deadlines. The authorities refused to initiate asylum procedures for 70 percent of all asylum seekers prior to any substantive consideration of their application because they did not apply for refugee status within 3 working days of their illegal entry into the country. As a result, they remained undocumented and faced arrest, detention, and deportation.

Under the Citizenship Law, legally registered refugees may apply for citizenship after 3 years of permanent residence. As of July 1, according to statistics in the Government Courier newspaper, 2,961 persons had official refugee status. Under the Refugee Law, refugees are entitled to material assistance. The Cabinet allocates funds in the national budget for payment of refugee pensions and small allowances for indigent refugees, plus transportation fare to a refugee center. Refugee reception centers operated in Vynytysya and Odesa.

Police harassment of refugees of certain categories of individuals, particularly those with dark skin, and, to a lesser degree, Asians continued during the year (see Section 1.c.). They included at least one severe beating. The UNHCR issued beneficiary cards to persons it recognized as refugees. Presentation of this card to law enforcement authorities reportedly led to some reduction in harassment, although this procedure did not help the large numbers of unrecognized refugees. The UNHCR continued to hold training seminars for judges, border guards, and other law enforcement personnel that focus on preventing such behavior.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully through periodic elections; however, seriously flawed by-elections during the year, as well as administrative and other difficulties imposed to limit organizational and publicity efforts of opposition parties, restricted this right. The Constitution provides for universal suffrage for citizens at least 18 years of age and for by-elections every 4 years for the Rada and every 5 years for President. The OSCE noted some improvements in the March 2002 Parliamentary elections, but significant flaws persisted. By-elections and local elections during the year revealed serious shortcomings in which individuals opposing the Kuchma regime faced administrative obstacles, pressure to discourage sympathetic media coverage of government opponents, and interference in their organizational activities. The Rada is elected partially according to proportional representation and partially by direct constituency mandate. The most recent presidential election was held in October and November 1999. The next presidential election is scheduled for October 2004.

A number of by-elections during the year were marked by serious irregularities. For example, two elections monitoring organizations issued reports alleging serious irregularities in the conduct of the May 18 Sumy mayoral election campaign and balloting. These irregularities included fraudulent voting, lack of consistent access by media and election observers to the electoral process, and the disqualification of a major candidate shortly before the elections.

A report by a prominent election monitoring organization highlighted a number of irregularities in the June 8 parliamentary elections in Chernihiv. According to the report, some voters were not able to vote due to discrepancies in the voter lists. Additionally, there was a lack of openness on the part of the local electoral commission toward the press. As in the case of the Sumy mayoral election, a prominent candidate was disqualified just before the election was to be held.

There were numerous instances of abuse of the electoral process, the prosecutorial and judicial systems, and state resources during and after the June Mukacheve elections. On December 26, President Kuchma issued a decree dismissing the elected mayor of Mukacheve and appointing a pro-government individual as acting mayor. The decree was based on the decision of a Lviv court of first instance that declared the June election invalid and ordered new elections. A Mukacheve court ruled the decree illegal, but the appointed mayor has occupied city hall with a police escort. At year's end, the Supreme Court scheduled the Mukacheve court's decision for review. The human rights Ombudswoman requested that the Constitutional Court provide an opinion.

During the year, authorities placed a variety of obstacles in the way of the opposition Our Ukraine bloc, whose leader, Viktor Yushchenko, was the unofficial front-runner in the 2004 presidential elections. Efforts of Our Ukraine to hold its annual party conference in Donetsk in October were impeded by the initial refusal of airport authorities to permit Yushchenko's aircraft to land at the Donetsk airport, blocked exits from the airport upon arrival, large crowds of hostile demonstrators at each of Our Ukraine's stops, refusal by security authorities at the government-owned conference hall to permit Our Ukraine access prior to the official opening of the conference, and by the authorities' permitting a large crowd to occupy the conference hall, thereby preventing Our Ukraine from using the facility. The behavior of local officials, who declared that they were unable to evict those occupying the building, and the highly organized nature of the demonstrations, led to widespread charges that the authorities in Donetsk or in Kiev planned the obstructions. An effort by Our Ukraine to stage a rally in Sumy also faced obstacles. They were denied use of the city's larger indoor venues, and the outdoor event they were able to stage was interrupted by a large group of protesters, who threw eggs, firecrackers, and stones. According to Our Ukraine, a number of bus companies cancelled contracts to transport Our Ukraine supporters to Sumy. Smaller-scale disruptions were reported at several other Our Ukraine regional rallies. Following these events, Parliament established an ad hoc commission to monitor the observance of the rights of Rada deputies and citizens to hold meetings and rallies. The commission did not release any findings by year's end.

Improvements in the 2002 parliamentary elections that were noted by the OSCE monitoring mission included a new Election Law that took into account international recommendations and a civil society engaged in the electoral process. For example, extensive NGO monitoring of the pre-election and election processes and prompt release of exit polling immediately after the voting ended helped to improve the electoral process. However, a general atmosphere of distrust pervaded the pre-electoral environment due to factors that included flawed implementation of the legal framework, illegal interference by authorities in the electoral process, and abuse of administrative resources, including alleged pressure on public employees to vote for certain candidates. Media coverage was highly biased, and opposition candidates did not have equal access to electronic media. The Government did not move in a proactive manner to ensure a level playing field for all political parties. Officials did not take steps to curb the widespread and open abuse of authority, including the use of government positions and facilities, to the unfair advantage of certain parties.

According to the OSCE report, voter lists were unreliable, including voters who had moved to other districts or left the country and deceased persons whose names remained on voter lists. During the parliamentary elections, there were numerous reports that the Government relied on local and regional authorities to pressure voters into supporting pro-presidential parties. Authorities also used administrative resources to support pro-presidential party campaigning activities. The OSCE noted a "surprising" contrast between the party-list vote and the single-mandate results. Election experts consider single district constituencies more easily manipulated than party list elections. There were many instances of harassment during campaigning and, as with previous elections, opposition candidates complained of voting irregularities, a lack of access to the media, and government pressure on behalf of pro-presidential candidates. Some violent incidents, including one killing in the 2002 pre-election period, may have been politically motivated (see Section 1.a.).

International observers noted violations of election day procedures in the 1999 presidential election, with more numerous and serious violations occurring in the second round of voting. A representative of the Parliamentary Assembly of the Council of Europe (PACE) declared that the election was "far from fair and democratic." However, because of President Kuchma's 18-point margin of victory, observers concluded that it was unlikely that these problems significantly altered the final outcome of the election.

A number of events took place toward the end of the year which were interpreted by political opponents of President Kuchma and by many human rights observers, including the special rapporteurs of the Parliamentary Assembly of the Council of Europe, as efforts to ensure the President's hold on power after the end of this term in office expired in 2004. The spokesmen for the Government denied these assertions, and the President vowed not to seek another term. In early December, the Constitutional Court approved three draft packages of constitutional changes initiated by the Presidential Administration and pro-presidential majority. While the packages ostensibly would increase the authority of Parliament, many critics state that the draft amendments were designed to strengthen the power of the President, alter future presidential elections, and prevent the opposition from gaining

power. The two majority-sponsored packages proposed that the President be elected by Parliament. The legislation was under consideration in the Rada at year's end. On December 30, the Constitutional Court ruled that President Kuchma could run for a third term in 2004, stating that the Constitutional limit of two terms did not apply to President Kuchma's first term since it began before the new Constitution took effect in 1996.

Two opposition party members died under suspicious circumstances during the year (see Section 1.a.). No new information was made available about the NGO Committee of Voters of Ukraine's (CVU) election monitor Oleksandr Olynyk, who disappeared following the March 2002 elections (see Section 1.b.).

There were 21 women in the 450-seat Rada, down from 23 in the previous Rada. No women held ministerial posts. The 18-member Constitutional Court had 2 female members. Women occupied approximately 9.7 percent of regional council seats, according to statistics from the State Committee for Family and Youth.

The representation of Crimean Tatars continued to increase in local and regional councils. Crimean Tatars had the third largest representation on the Supreme Council of Crimea, due largely to citizenship laws that increased the number of eligible voters from the Crimean Tatar community.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases and Government officials frequently were cooperative and responsive to the views of NGOs; however, human rights groups reported continued difficulties in investigating some human rights abuses.

On December 11, the Rada approved a resolution establishing an ad hoc commission to investigate foreign-funded NGOs. Human rights observers viewed this as an attempt by the Government to discredit NGOs in the eyes of the public and reduce possible sources of points of view contrary to its own.

The Parliamentary Commissioner on Human Rights is a constitutionally mandated, independent human rights Ombudsman. The incumbent was reelected on June 19 to a second 5-year term. The law provides the Ombudsman with unrestricted and unannounced access to any public official, including the President; unrestricted access to any government installation; and oversight of the implementation of human rights treaties and agreements to which the country is a party; however, the law provides no penalties for those who obstruct the Ombudsman's investigations, nor does it create sufficient enforcement authority for the Ombudsman. The law requires the Government to submit amendments to existing laws in order to establish a legal framework for the operation of the Ombudsman's office; however, although the Ombudsman noted the lack of effective mechanisms for protection of human rights in a November 2000 report to Parliament, that body had not enacted any such amendments by year's end. All citizens and residents can address their concerns to the Ombudsman, and the Ombudsman serves as an intermediary between citizens and the Constitutional Court, since citizens cannot address the Court directly (see Section 1.e.).

In 2002, the Ombudsman's office reported that it had received approximately 270,000 letters and other requests for information from individuals during the year. It is unclear how many of those requests were complaints of human rights violations. The office consisted of approximately 100 full- and part-time workers; however, according to the Ombudsman, underfunding of the office continued to hamper its activities. The Ombudsman continued to make the combating of trafficking in persons (see Section 6.f.) and improving prison conditions (see Section 1.c.) major priorities during the year.

Citizens have the right to file appeals with the ECHR about alleged human rights violations. The ECHR has described the country as the fourth largest contributor of complaints. Between 1997 and the end of 2002, approximately 4,000 applications were filed with the court from Ukraine. There were seven decisions during the year: Six cases resulted in the finding that human rights violations had been committed, and, in one case, the court delivered a ruling of just satisfaction and awarded the applicant approximately \$836,999 (550,000 euros) in monetary and non-monetary damages.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language or Social Status

The Constitution prohibits discrimination on the basis of race, sex, and other grounds; however, the Government did not enforce these provisions effectively due, in part, to the absence of an effective judicial system.

Persons living with HIV/AIDS faced discrimination in the workplace; job loss without recourse to legal protection; harassment by law enforcement, prosecutorial, and judicial authorities, and social isolation and stigmatization within their communities.

## Women

Violence against women reportedly was pervasive. Spousal abuse is illegal, but the authorities often pressured women not to press charges against their husbands. On June 5, President Kuchma signed a law prescribing fines and arrest for domestic violence but it was too soon to evaluate its effects at year's end. The Criminal Code prohibits rape and "forced sex with a materially dependent person," which may allow prosecution for spousal rape. Official statistics on prosecutions for wife beating or on average sentences were not available; however, the Institute of Sociological Research reported in September 2000 that 12 percent of women under the age of 28 had been victims of domestic violence.

According to the State Bureau for Family and Youth, the Interior Ministry constantly monitored the 17,900 individuals officially charged with domestic violence. Of these, 13,600 were cases of physical abuse and 3,500 were cases of mental abuse. Prior to monitoring, individuals received first and second notices from authorities. As of October, 27,200 persons had been issued official warnings for the first time, and 3,500 received second warnings. According to authorities, the total number of registered domestic violence cases through October was 49,400, of which 19,000 were registered in the first half of the year.

While statistics compiled by the U.N. Development Program (UNDP) showed that the number of reported rapes and attempted rapes had decreased over the previous few years, surveys indicated that the majority of rapes and other cases of physical abuse went unreported. Past surveys by women's groups indicated that between 10 and 15 percent of women had been raped and that more than 25 percent were abused physically in their lifetimes. The International Helsinki Federation for Human Rights reported in 2000 that 20 percent of women aged 17 to 21 had faced attempted rape. In 2001, 1,051 rape cases were opened under Article 117 of the old Criminal Code and another 152 under the new Criminal Code. Information on convictions was not available.

Violence against women did not receive extensive media coverage despite the efforts of human rights groups to highlight the problem. State-run hot lines, shelters, and other forms of practical support for victims of abuse were few. Municipal authorities in Kiev ran a women's center, the only municipally supported shelter in the country. NGOs attempted to provide services for abused women through the establishment of women's support centers in nine cities (see Section 6.f.).

The country was a significant source and transit country for women trafficked abroad for sexual exploitation (see Section 6.f.).

Human rights observers and women's groups stated that discrimination against women continued to be a common problem in the workplace. The Government and private businesses regularly specified the gender of employees in their help-wanted advertisements, and employers frequently demanded information about a woman's family situation and subsequently used it to deny employment to women who were likely to become pregnant. Physical appearance and age were often taken into account in employment decisions involving women.

Women's groups reported that there was widespread sexual harassment in the workplace, including coerced sex. Apart from the law that prohibits forced sex with a "materially dependent person," which applies to employees, legal safeguards against harassment were inadequate. No statistics were available concerning the number of prosecutions for sexual harassment during the year.

Labor laws establish the legal equality of men and women, including equal pay for equal work, a principle that generally was observed; however, the economic decline of the past decade has harmed women disproportionately. Women were much more likely to be laid off than men. At the beginning of the year, according to the State Committee on Statistics, overall unemployment was 3.8 percent; however, experts state that the real unemployment rate is closer to 9.4 percent. Authorities said that, as of mid-year, the unemployment rate among women was 9.2 percent, compared to 9.7 percent among men. Industries that were dominated by female workers were also those with the lowest relative wages and the ones that were most likely to be affected by wage arrears problems. According to statistics from the State Committee for Family and Youth released in June, women's average pay was 17.5 percent lower than the average wage for men in 2002.

The Constitution and the Law on Protection of Motherhood and Childhood prohibit the employment of women in jobs that are hazardous to their health, such as those that involved heavy lifting; however, enforcement of these

laws remained poor despite the implementation of a government program to combat dangerous labor. According to the Ministry of Labor, in 2002, 450,100 women were employed in hazardous jobs, a decline of more than 25 percent compared to 2001. Many women's rights advocates expressed concern that the law may be used to bar women from the best-paying blue-collar jobs. By law, pregnant women and mothers with small children enjoy paid maternity leave until their children reach the age of 3 years. This benefit is cited as a disincentive for employers to hire women for high-responsibility or career-track jobs. However, nearly 49 percent of the workforce consisted of women.

Few women attain top managerial positions in state and private industry. A 2000 business survey found that half of private-sector employees were women and that women ran 30 percent of private small businesses and 13 percent each of large and medium businesses. According to Government statistics, at the end of 2002, 75 percent of the country's approximately 216,949 civil servants were female (162,682), including 60.5 percent of those in managerial positions. However, women held only 8.3 percent of the highest, "first category," positions. (These numbers did not include the "power ministries"--the Ministries of Defense, Internal Affairs, Foreign Affairs, and the SBU--which had a substantially higher percentage of male employees at all levels.)

Educational opportunities for women generally continued to be equal to those enjoyed by men; however, the Government limited the number of women permitted to receive military officer training to 20 percent of the total number of students accepted. In addition, the military forces limited the role of women to certain functions, which limited their chances for promotion and training opportunities; women in the military generally occupied low-paying, routine positions.

### Children

The Government was publicly committed to the defense of children's rights, but budgetary constraints severely limited its ability to ensure these rights. There were few government bodies or NGOs that aggressively promoted children's rights, although the Ombudsman spoke publicly on the need to provide for youth. A 2001 law on child protection was designed to bring the country into conformity with international standards regarding children's safety and quality of life. In 2002, child and family protection laws were amended with the aim of helping to regulate child-refugee protection and address financial assistance for families in need. There was no information available to evaluate the impact of these measures.

Education was free, universal, and compulsory until the age of 15; however, the public education system has deteriorated as a result of the Government's financial disarray. Teachers were paid their salaries during the year, but other monetary benefits due them were not paid in some localities. Increasing numbers of children from poor families dropped out of school, and illiteracy, which previously was very rare, became a problem. Of the nearly 6.5 million children attending school during the 2002-03 school year, 3.2 million were girls and 3.3 million were boys. Official statistics on the proportion of school-age children attending school were not available at year's end; however, according to a Ministry of Education sponsored organization, Vseobuch, more than 8,000 school-age children did not attend school. According to statistics released in June by the State Committee for Family and Youth, 10.7 million children younger than 18 years of age, including 456,000 children aged 7 to 17, worked. Of these, 87,000 were in the most vulnerable age group of 7- to 12-year-olds. The All-Ukrainian Committee for the Protection of Children reported that lack of schooling remained a significant problem among the rural population. The problem of growing violence and crime in and outside of schools persisted, particularly in the notoriously violent vocational schools. According to official statistics, 4,381 criminal cases were opened during the year against minors involved in criminal activity. The Government has ignored this problem.

Health care was provided equally to girls and boys, but economic problems worsened the overall quality of the health care system.

Violence and abuse against children remained a problem. According to a poll conducted by the State Institute of Family and Youth, 43 percent of minors said that they had been victims of some form of violence. By year's end, 300 additional criminal cases had been opened against parents for neglect of parental duties. The majority of complaints of abuse of children related to child prostitution, pornographic video sales, and child molestation.

Trafficking in children was a serious problem (see Section 6.f.).

The number of homeless children, who usually fled poor orphanages or poor domestic conditions, remained high. According to a 2000 press release from the Ministry of Internal Affairs, 100,000 children were registered as homeless; of those, 14 percent were under 7 years old. According to the Family/Youth Committee, the Government identified 2,600 homeless children during the year. Deteriorating conditions in the state orphanages has led the Government to encourage families to provide foster homes for orphans and to facilitate the establishment of family



orphanages, where the parents are paid a salary, the state financially supports the children, and a house or apartment is provided. According to officials, there are currently 1,400 children living in family orphanages. On February 21, President Kuchma signed a decree that establishes a national program aimed at addressing the problem of homelessness among children. A priority of the program is the establishment of a country-wide hotline for children, and increased cooperation with the United Nations Children's Fund to improve socio-legal support for children and prevent homelessness.

#### Persons with Disabilities

The law prohibits discrimination against persons with disabilities; however, the Government did little to support programs designed to increase opportunities for persons with disabilities. Legally mandated levels of employment of such persons at state enterprises were not observed. There were only five special vocational schools for persons with disabilities. As a result, according to one NGO, approximately 7,000 children with disabilities received an incomplete secondary education. Advocacy groups for persons with disabilities maintained that there was societal discrimination against such persons. In an effort to improve public perception of them, the Government made significant efforts to raise the profile of athletes with disabilities participating in international competitions, including the Winter Paralympics in March 2002. The law mandates access to buildings and other public facilities for persons with disabilities; however, the law was poorly enforced.

#### National/Racial/Ethnic Minorities

The frequent harassment of racial minorities was an increasing problem. The police routinely detained dark-skinned persons for arbitrary document checks, whereas document checks of light-skinned individuals were rare (see Section 1.d.). Although the authorities disciplined police who engaged in this harassment when incidents were brought to their attention, such behavior remained common. There were increased reports of racially motivated violence against persons of African and Asian heritage. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, violence against them.

Roma faced considerable societal discrimination. Opinion polls have shown that, among all ethnic groups, the level of intolerance is highest toward Roma. Roma continued to be subject to violence and abuse by police (see Section 1.c.).

The Constitution provides for the "free development, use, and protection of the Russian language and other minority languages." This provision expanded a 1992 law on national minorities that played an instrumental role in preventing ethnic strife by allowing individual citizens to use their respective national languages to conduct personal business and by allowing minority groups to establish their own schools. However, some pro-Russian organizations in the eastern part of the country complained about the increased use of Ukrainian in schools and in the media. They claimed that their children were disadvantaged when taking academic entrance examinations, since all applicants were required to take a Ukrainian language test. According to official statistics on languages used in schools, 16,532 taught in Ukrainian, 2,215 in Russian, 97 in Romanian, 68 in Hungarian, 9 in Moldovan, 10 in Crimean-Tatar, and 3 in Polish.

Ukrainian and Crimean Tatar minorities credibly complained of discrimination by the ethnic-Russian majority in Crimea and demanded that the Ukrainian and Crimean-Tatar languages be given a status equal to Russian. Crimean Tatar leaders continued to call for changes in the electoral law that would allow them to achieve greater representation in the Crimean legislature.

The Crimean Government, pleading insufficient funds, did not assent to requests from the Crimean Tatar community for assistance in reestablishing its cultural heritage through Tatar language publications and educational institutions. However, the Government continued to work with the UNDP, OSCE, and the International Organization for Migration (IOM) on support for the Crimean Tatar community. According to the UNHCR, 98 percent of the approximately 260,000 Crimean Tatars who returned to the country from exile in Central Asia have received citizenship. However, Crimean Tatar leaders complained that their community has not received adequate assistance in resettling and that the previously onerous process of acquiring citizenship excluded many of them from participating in elections and from the right to take part in the privatization of land and state assets (see Section 2.d.).

Romanians continued to call for university-level instruction in Romanian or the establishment of a Romanian technical college. There were 86 Romanian-language schools in the Chernivtsi Oblast.

Rusyns (Ruthenians) continued to call for status as an official ethnic group in the country, noting that they are accepted as minorities in neighboring countries. Representatives of the Rusyn community have called for Rusyn-language schools, a Rusyn-language department at Uzhhorod University, and for Rusyn to be included as one of

the country's ethnic groups. According to Rusyn leaders, more than 700,000 Rusyns live in the country.

## Section 6 Worker Rights

### a. The Right of Association

The Constitution provides for the right to join trade unions to defend "professional, social and economic interests;" however, certain categories of workers, for example, nuclear power plant employees, are prohibited from doing so. Under the Constitution, all trade unions have equal status, and no government permission is required to establish a trade union. The Law on Citizens' Organizations (which includes trade unions) stipulates noninterference by public authorities in the activities of these organizations, which have the right to establish and join federations on a voluntary basis. There were both official and independent trade unions.

To acquire national status under the amendments, however, a union must either have branches in more than half of the administrative regions or have branches in more than half of the administrative regions where the enterprises of this sector are located. The amendments also granted labor unions the status of "legal entities," allowing them to acquire property and open bank accounts without being registered at the Ministry of Justice. The amended law still requires that a union be registered before engaging in collective bargaining or participating in the management of social insurance funds. The Justice Ministry can deny registration if the union does not meet the requirements.

There were no reports during the year that the Ministry had denied registration to unions not loyal to the Government. All unions affiliated with the Federation of Trade Unions (FPU), which maintained strong ties to the Government and inherited assets from the official Soviet unions, as well as several new, independent, labor unions, were registered. However, some independent unions, including the Independent Miners Union of Ukraine (NPGU), initially chose not to register because the courts had declared that the registration requirement was unconstitutional. After changes in 2002 and during the year to legislation that granted labor unions the status of "legal entities" and required only "notification of registration," the NPGU proceeded to register with the Ministry of Justice.

Although the FPU often coordinates its activity with the Government, it continued to work independently on some labor matters and advocated workers' right to strike. The FPU has supported the protests of some professions over unpaid wages; however, most FPU affiliates worked closely with management. Enterprise managers were free to join the FPU. The FPU leadership has a political party, the All-Ukrainian Party of Workers.

Independent unions provided an alternative to the official unions in many sectors of the economy. At year's end, there were 101 registered trade unions, including 42 traditional (FPU) and 59 new trade unions. According to the Confederation of Free Trade Unions of Ukraine (CFTU), the latter was comprised of 28 CFTU member organizations, while the remaining 31 were affiliated with neither the FPU nor the CFTU. The NPGU, whose member unions represented pilots, civil air traffic controllers, locomotive engineers, aviation ground crews, and others, operated either independently or within one of three national confederations. While exact membership figures were unknown, there were estimated to be fewer than 2 million non-FPU members (down from 3 million in 2002) and 12 million (down from 14.5 million in 2002) members of FPU-affiliated unions. The drop in union membership was attributed to general apathy and cynicism regarding the benefits of union membership, as well as the fact that membership was no longer required for certain benefits, such as sick leave.

Independent unions were denied a share of the former Soviet trade unions' huge property and financial holdings, particularly the social insurance benefits funds, a Soviet-era legacy on whose boards FPU-affiliated unions held the majority of seats. Independent trade union leaders complained that state representatives sought to influence union votes and pressure members to report on union activities. Independent trade union leaders also reported that they and their family members were subjected regularly to surveillance by law enforcement authorities.

According to additional provisions of the law, management no longer is obligated to provide free accommodations and telephone lines to unions. However, the law gives unions a say in labor safety and in the allotment of newly built public housing. These aspects of the law have not been contested.

There were no official restrictions on the right of unions to affiliate with international trade union bodies. The NPGU was a member of the Federation of Chemical, Energy, Mine, and General Workers' Unions.

### b. The Right to Organize and Bargain Collectively

As a result of amendments to trade union law, which took effect in June, trade unions are no longer required to register or to obtain certificates of legalization; however, the Independent Coal Miners Union experienced problems creating new branches of their organization. The authorities refused to recognize them and continued unlawfully to require legalization certificates for their operations (opening accounts, renting offices, employing staff, etc.).

In the past, some authorities interpreted a provision in the Law on Public Organizations stating that public organizations are created to protect the interests of their members to mean that public organizations may offer services only to their members. However, there were no reports that this requirement was used to restrict the activities of any group during the year.

According to the law, joint worker-management commissions should resolve problems concerning wages, working conditions, and the rights and duties of management at the enterprise level. The Law on Collective Bargaining provides the right to collective bargaining; however, overlapping spheres of responsibility frequently impeded the collective bargaining process, and the manner in which the collective bargaining law was applied prejudiced the bargaining process against independent unions and favored the official unions (affiliates of the FPU). Most workers were not informed that they were not obligated to join the official union. Renouncing membership in the official union and joining an independent union could be bureaucratically onerous and typically was discouraged by management. The law provides that an independent union may be removed easily from the collective bargaining process at the enterprise level. Under earlier legislation, if several unions at an enterprise failed to agree on joint representation, the larger union--that is the FPU--represented labor in the bargaining process. Neither the 1999 law nor the January amendments to the Trade Union Law addressed this problem.

The Government, in a negotiation with trade unions in which all unions were invited to participate, established wages in each industrial sector in the form of a General Collective Bargaining Agreement, last signed in April 2001. In 2002, the agreement was extended for another year and, since October, official and independent trade unions have been negotiating with the Government and employers on the signing of a new agreement. The Law on Labor Disputes Resolution establishes an arbitration service and a National Mediation and Reconciliation Service to mediate labor disputes. According to official statistics, the service resolved 244 out of 409 labor disputes during 2002, in which 2,169,941 employees from 9,446 enterprises were involved. During the first 9 months of the year, the service resolved 63 out of 231 labor disputes, in which 2,579,522 workers from 6,468 enterprises participated. The collective bargaining law prohibits anti-union discrimination. Under the law, the courts must decide discrimination disputes involving a union that is barred from participating in a collective bargaining agreement. There have been cases in which such disputes were not settled in a fair and equitable manner.

The Constitution provides for the right to strike "to defend one's economic and social interests," but states that strikes must not jeopardize national security, public health, or the rights and liberties of others. The law prohibits strikes that jeopardize life, health, or the environment or that might hinder disaster, accident, or epidemic-related operations. The law does not contain a specific prohibition on strikes based on political demands; however, it prohibits strikes based on demands to change the constitutional order, state borders, or the administrative division of the country, as well as on demands that infringe on human rights. The law does not extend the right to strike to members of the procuracy, judiciary, armed forces, security services, law enforcement agencies, or public servants. The law extends the right to strike to employees of "continuing process plants" such as metallurgical factories, provided that they give 15 days' advance notice of their intent to strike. According to the International Confederation of Free Trade Unions (ICFTU) 1999 annual report, the Law on Transportation does not allow strikes in the transport sector. Workers who strike in prohibited sectors may receive imprisonment of up to 3 years.

The Government has relied on prosecutors and the courts to deal with strikes that it considered illegal. The law does not extend the immunity from discipline or dismissal to strikers who take part in strikes that later are declared illegal by the courts. A union that organizes an illegal strike is liable for strike-inflicted losses. During 2002, there were 19 strikes in which 97 enterprises and 9,344 workers took part. As of October 1, more than 4,200 employees from 13 enterprises had taken part in 13 strikes. These figures illustrated a significant drop in strike participation from 2000, when an estimated 20,600 workers from 76 enterprises participated in strikes.

There are no export processing zones.

#### c. Prohibition of Forced or Bonded Labor

The Constitution and the Labor Code prohibit forced or bonded labor, including by children; however, there were reports that such practices occurred (see Sections 6.d. and 6.f.). Human rights groups described as compulsory labor the common use of army conscripts in the alternative service for refurbishing and building private houses for army and government officials (see Section 1.c.).

#### d. Status of Child Labor Practices and Minimum Age for Employment

The minimum age for employment is 16; however, in certain non-hazardous industries, enterprises may negotiate with the Government to hire employees as young as 15 with the consent of one parent. Children aged 14 can legally work on a short-term basis in the social sector and agriculture with the consent of one parent. The State Department for Monitoring Enforcement of Labor Legislation within the Ministry of Labor and Social Policy is responsible for enforcing child labor laws and was generally effective; however, some children under the minimum employment age worked in the informal sector. According to research conducted by the Ukrainian Institute of Social Research in cooperation with the International Labor Organization, 6.8 percent of children between the ages of 7 and 17 work.

The Criminal Code prescribes up to 5 years in prison for involving children in criminal activities, drinking, begging, prostitution, gambling, or other exploitation. Children worked in the agricultural sector, and child labor was also a trafficking issue (see Section 6.f.). Begging by children existed, although it was limited. During the first quarter of 2002, the latest year for which statistics are available, police identified almost 1,500 offenders for involvement in child labor, 111 of them for involvement in begging.

#### e. Acceptable Conditions of Work

Working conditions and pay levels reflected the overall poor state of the economy. The minimum monthly wage was approximately \$31 (165 hryvnya) in May. Legislation provided for an increase to \$44 (235 hryvnya) beginning in December. The Rada amended the Law on Pensions to increase the minimum pension to approximately \$13 (70 hryvnya) from \$4.50 (24 hryvnya) in 2002; however, the President vetoed the amendment and the minimum pension is now less than \$10 (50 hryvnya). The amendment was intended also to bring the minimum pension into line with the minimum subsistence level of \$64.60 (342 hryvnya) per month; however, all increases have been halted pending the implementation of pension reform. Pensioners also receive a supplementary social benefit of less than \$4 monthly (20 hryvnya).

On January 1, the minimum average monthly wage increased to approximately \$35 (185 hryvnya). In 2002, the nominal average monthly salary stood at approximately \$71 (376 hryvnya), and for the first half of the year increased to approximately \$80 (424 hryvnya). During the year, the average monthly salary for the first time exceeded the subsistence level, which is expected to increase to approximately \$67 (357 hryvnya) by the end of the year.

While the government sector has repaid wage arrears in most areas, in some parts of the country teachers were not paid monetary benefits (back holiday pay and service bonuses) owed to them. Although wage arrears decreased by approximately 7 percent in 2002, they remain substantial. In the first 6 months of the year, these arrears increased by 1.3 percent to approximately \$440 million (2.34 billion hryvnya), or 3.7 percent of the payroll. Most wage arrears accumulated in industry (58.3 percent), agriculture (18.5 percent), and construction (7.8 percent). They remained a problem in the private sector (which includes large enterprises in which the State was a shareholder). The national pension system repaid all arrears during 2000. Average wages were not as low as these statistics suggest, since the untaxed and unreported shadow economy was estimated to account for 50 percent of total economic activity. Activity in the shadow economy tended to be concentrated in retail trade and services but touched every sector and provided a means for individuals to supplement their often-meager salaries. In rural areas, where reported incomes tended to be the lowest, families subsidized their incomes by growing fruit and vegetables and raising livestock.

The Labor Code provides for a maximum 40-hour workweek, a 24-hour period of rest per week, and at least 24 days of paid vacation per year. Stagnation in some industries, for example in defense, significantly reduced the workweek for some categories of workers. The law contains occupational safety and health standards; however, these frequently were ignored in practice. In particular, illegal coal mines connected to organized crime and corrupt leaders operated in unsafe conditions, resulting in scores of deaths. Lax safety standards and aging equipment caused approximately 26,000 injuries on the job each year. During the year, 24,848 people were injured (1,320 fewer than in 2002), including 1,230 job-related fatalities (55 fewer than in the previous year). Also during the year, 10,841 miners (down from 12,606 in 2002) were injured in the coal sector, including 217 fatalities (down from 267 in 2002). In the coal-mining sector, it was estimated that, in the first 9 months of the year, there were 2.57 deaths (down from 3.52 in 2002) for every million tons of raw coal extracted.

In theory, workers have a legal right to remove themselves from dangerous work situations without jeopardizing continued employment; however, independent trade unionists reported that, in reality, asserting this right would result in retaliation or perhaps dismissal by management.

#### f. Trafficking in Persons

The law prohibits trafficking in persons; however trafficking in men, women, and girls remained a significant problem. There were reports that some local officials were involved in trafficking.

The Criminal Code imposes firm penalties for trafficking in human beings, including for sexual exploitation and pornography. Article 149 mandates 3 to 8 years in prison for trafficking. Under some circumstances--for example trafficking of minors or groups of victims--traffickers may be sentenced to prison terms from 5 to 12 years, and traffickers of minors or members of organized trafficking groups may be sentenced to terms from 8 to 15 years.

The Government improved its investigation and prosecution of suspected traffickers. According to statistics supplied by the Ministry of Interior to the IOM, 289 cases were filed against traffickers during the year, up from 169 in 2002. Since 1998, a total of 604 criminal trafficking cases were filed; these did not include cases opened under other applicable laws, such as brothel keeping, organized crime, and fraud. During the first 6 months of the year, 33 cases were prosecuted, with 15 cases fully concluded. Of these cases, 13 resulted in convictions, and 20 defendants were sentenced.

Trafficking was a national priority for law enforcement agencies, but these agencies often lacked the financial and personnel resources to combat well-established criminal organizations that ran trafficking operations. The Ministry of Internal Affairs established special anti-trafficking units at the national and oblast levels. These units became operational in 2000, and had a growing impact, although they suffered from lack of adequate resources and often were tasked to work on cases involving other crimes. The Government reported that it regularly reviewed the licenses of domestic employment agencies.

The Government generally cooperated with other governments in the investigation and prosecution of trafficking cases; however, efforts were hampered by a number of factors, including insufficient investigative resources, the reluctance of victims to give evidence against traffickers, and, in some cases, a lack of cooperation from officials in destination countries. The law permits the extradition of foreign nationals charged with trafficking when appropriate bilateral agreements with the country in question have been signed, when the crime was committed within the jurisdiction of another country, and when trafficking is a crime under the laws of the requesting country; however, there have been no cases of extradition of trafficking suspects. The Constitution prohibits the extradition of citizens. Government cooperation with NGOs improved during the year. A June 2002 decree of the Cabinet of Ministers mandated that central, regional, and local administrations develop and approve measures to combat trafficking in persons and mobilize funds to implement actions. The oblast governments responded quickly to the decree. For the first time, almost all the local and regional authorities included NGOs as partner organizations in their regional action plans. The relevant authorities, however, had yet to budget for any new activities. The Inter-Ministerial Coordination Council for Combating Trafficking in Persons had not yet held a substantive meeting.

The country was a major country of origin and transit for women and girls trafficked abroad for sexual exploitation. There were reports of men and boys being trafficked abroad primarily for labor purposes; however, the overwhelming majority of trafficking victims were women. No reliable figures were available on the extent of the problem, and estimates varied widely. There were reports that individual government employees (both law enforcement and other personnel such as orphanage employees) facilitated trafficking in persons.

Between January 2000 and year's end, the IOM assisted 1,153 trafficking victims (including 525 during the year) to return to the country and reintegrate into society. From January 2002 to September, the NGO La Strada assisted an additional 96 victims to return home and reintegrate. These numbers represented a small percentage of the total number of women trafficked abroad. In 1999, La Strada estimated that 420,000 women had been trafficked abroad between 1991 and 1998. In unofficial estimates, Winrock representatives conservatively projected that between 8,000 and 10,000 individuals were trafficked abroad during the year.

Women and girls were trafficked to Central and Western Europe (including the Balkans, Austria, Italy, France, Germany, Switzerland, the Czech Republic, Hungary, Portugal, Spain, Poland, Greece, and Turkey), the United States, and the Middle East (including Israel, Lebanon, and the United Arab Emirates) for sexual exploitation. There also were reports that women and girls were trafficked to Australia, Japan, and South Africa.

Women who were trafficked out of the country often were recruited by firms operating abroad and subsequently were taken out of the country with legal documentation. They were solicited with promises of work as waitresses, dancers, or housemaids, or were invited by marriage agencies allegedly to make the acquaintance of a potential bridegroom. Once abroad, the women found the work to be very different from what was represented to them initially. There were credible reports of widespread involvement of organized crime in trafficking.

Men were trafficked for agricultural labor and factory work. The main destination countries were Hungary, Poland, the Czech Republic, Slovenia, Russia and Western Europe. Men were promised reasonable wages, but were not paid and were frequently turned over to the police in the destination countries as illegal aliens if they complained. The Ministry of the Interior opened criminal cases against the employment agencies who organized the trafficking when they had a specific complaint from a victim.

There were unconfirmed reports that local officials abetted or assisted organized crime groups involved in trafficking. NGOs reported that local militia and border guards received bribes in return for ignoring trafficking. Some reports alleged that local public officials abetted or assisted organized criminal groups in trafficking women abroad. In a 1999 report, the UNDP identified graft of officials and political corruption as two of the factors causing the spread of trafficking and prostitution; however, data on the possible disciplining or prosecution of law enforcement and border control authorities for their involvement in trafficking was unavailable.

Although 278 victims testified against traffickers during the year, victims often were reluctant to seek legal action against traffickers out of fear of reprisals or unwillingness to tell their stories publicly. Societal attitudes toward trafficking victims often were harsh, deterring women from pursuing legal action against traffickers. In addition, law enforcement officials did not provide sufficient protection to witnesses to encourage them to testify against traffickers, and traffickers were able to intimidate victims to withdraw or change their testimony. A witness protection law existed but was not fully effective because of shortages of funding. Under the law, names and addresses of victims of crimes may be kept confidential if they request protection due to fear for their lives.

The Government ordered rehabilitation centers to be opened in each of the 27 oblasts; however, the authorities remained unable to assist all victims effectively, primarily due to lack of funds. NGOs such as the domestic affiliates of La Strada and Winrock International offered some support services for victims of trafficking, but these groups also suffered from a shortage of funds. The IOM's Kiev mission, in cooperation with its missions in destination countries, provided return and reintegration assistance to victims. The IOM and NGOs, particularly La Strada and Winrock International, worked closely with government officials; however, NGOs reported that the lack of activity by the central government authority on trafficking issues could be frustrating. With foreign government assistance, nine regional trafficking prevention and women's support centers were in operation at year's end in Donetsk, Lviv, Dnipropetrovsk, Chernivtsi, Kherson, Rivne, Odessa, Chernihiv, and Zhytomyr. The centers offered job-skill training and telephone hotlines and served as referral centers for health, legal, and psychological counseling. The IOM continued to operate a comprehensive medical center and shelter for victims of trafficking in Kiev. The center provided medical and psychological services, including vocational counseling, to 173 trafficking victims in 2002 and to 144 individuals during the first 9 months of the year. These centers, as well as additional NGOs funded by the IOM, also played an important role in facilitating good relations and cooperation between victims, communities, and law enforcement organizations in addressing trafficking issues.

NGOs also operated hotlines in Luhansk, Odesa, Kharkiv, Ternopil, and Sevastopol. During 2002, La Strada hotlines received 4,061 calls, 72 percent of which concerned consultation on working abroad. From January through September, 3,614 hotline consultations were provided. Since November 1997, La Strada has received more than 16,141 calls. Winrock International reported 9,000 calls to its hotlines during the first 9 months of the year; 20 percent of which concerned trafficking. The majority of the callers were between 19 and 30 years of age. The Government worked to improve assistance provided by its diplomatic missions to victims in destination countries.

The Deputy Prime Minister for humanitarian affairs is responsible for implementing all anti-trafficking programs. The National Coordinating Council for the Prevention of Trafficking in Human Beings increasingly has become an outspoken and leading advocate in the Government for raising public and international awareness of the trafficking problem; however, the Ombudsman's office lacked enforcement powers and did not demonstrate its practical effectiveness (see Section 4). In June 2002, the Cabinet of Ministers approved a National Action Plan to Counter Trafficking for 2002-2005.

During the year, several television stations broadcast documentary films and informational programs highlighting the danger of trafficking. Additionally, several international roundtable discussions and a major conference on trafficking were held in Kiev. NGOs conducted general awareness campaigns throughout the country and the region, often in cooperation with government entities. For example, a regional conference on trafficking involving law enforcement officials from Ukraine, Belarus, Moldova, and Russia took place in Minsk in May. On May 29, representatives from the Ministry of Internal Affairs and the Ministry's Anti-Trafficking Division, the Security Service of Ukraine, the State Committee for Family and Youth, Rada deputies, the Supreme Court of Ukraine, Cabinet ministers, IOM, La Strada, Winrock, several foreign embassies, and the head of the State Border Committee took part in a roundtable on combating trafficking in persons. The roundtable focused on reviewing implementation of the comprehensive national plan to combat trafficking, practical and legislative issues related to investigation and

prosecution of cases, and internal and cross-border cooperation between law enforcement bodies. These activities, together with the constant attention to the trafficking problem by the Ombudsman, helped to raise public awareness.